



Strasbourg, 20 November 2020

T-PD(2020)40RAPAbr

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

(Convention 108)

40th Plenary meeting

Strasbourg, 18 – 20 November 2020
via videoconference

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 the Convention, held its 40th plenary meeting¹ via videoconference from 18 to 20 November 2020, with Ms Alessandra Pierucci (Italy) in the chair on the morning of 18 November and with Ms Tamar Kaldani (first Vice-Chair, Georgia) in the chair for the rest of the meeting.

The agenda, as adopted by the Committee, and the list of participants are set out in Appendices I and II.

2. The Committee:

2.1. took note of the information provided by Mr Jan Kleijssen, Director, Information Society – Action against Crime (see Appendix III);

2.2. took note of the information provided by the Secretariat on the **signatures and ratifications** of the Protocol amending Convention 108 (CETS No. 223, hereafter Convention 108+):

- a) The 33 signatures of Convention 108+, and nine ratifications (Bulgaria on 10 December 2019, Croatia on 18 December 2019, Lithuania on 23 January 2020, Serbia on 26 May 2020, Poland on 10 June 2020, Mauritius – as the first African Party to ratify Convention 108+ – on 4 September 2020, Estonia on 17 September 2020, Cyprus on 21 September 2020, and by Malta on 2 November 2020). Five Parties (Bulgaria, Cyprus, Estonia, Lithuania and Norway) made use of Article 37.3 of the amending protocol and declared the provisional application of Convention 108+ pending entry into force.
- b) the upcoming exercise of follow-up on the state of signatures and ratifications, carried out by the Ministers' Deputies and their Group of Rapporteurs on Legal Cooperation (GR-J) in line with the decision adopted at the Elsinore Ministerial session of 18-19 May 2018 (CM/Del/Dec(2018)128/5);

2.3 took note of the information provided by Ms Cécile de Terwangne on the **evaluation and follow-up mechanism under Convention 108+**, held an exchange of views with the expert regarding the proposed modifications to the draft documents (T-PD(2018)20rev6, T-PD(2018)21rev6) and instructed the Bureau to pursue the finalisation of the documents, in close coordination with the Working Group on the evaluation and monitoring mechanism lead by the United Kingdom;

2.4 took note of the information provided by Mr Franck Dumortier regarding the **accession request of Costa-Rica** and the evaluation of its national data protection system in light of Convention 108+ (document T-PD(2020)08) as first country requesting accession to the Convention after the opening for signature of the amending Protocol CETS n°223 and instructed the Bureau to finalise the draft opinion of the Committee with a view to its adoption by written procedure ;

2.5 took note of the presentation by the Secretariat on the state of play regarding the negotiations of the draft Second Additional Protocol to the Budapest Convention on **Cybercrime** (ETS n°185) and of the recent publication draft provisions (related to joint investigations, expedited disclosure in an emergency and request DNS registration conformation) by the Cybercrime Committee. The Committee called upon Parties to Convention 108 to engage in the discussions by liaising with national negotiating delegations and/or requesting membership to the subgroup of the Protocol Drafting Group dealing with safeguards, in order to ensure consistency of regimes between the two Council of Europe conventions (the Budapest Convention and Convention 108+). It instructed the Bureau to continue to follow closely the work related to the drafting of the second additional Protocol to the Budapest Convention and, when a draft provision on the data protection regime will be available, to prepare the position of the Committee;

¹ 182 participants in all, 96 women and 86 men.

2.6 took note of the presentation by the Secretariat on the Draft Guidelines **on facial recognition** and held an exchange of views agreeing that a revised version of the draft Guidelines will be prepared for further discussion at the December Bureau meeting and finalisation of the draft with a view to submitting the draft Guidelines to adoption by written procedure;

2.7 took note of the report “Children’s Data Protection in Education Systems: Challenges and Possible Remedies” by Ms Jen Persson, examined the draft Guidelines, held an exchange of views with the expert on the comments received and adopted the revised text of the Guidelines on **Children’s Data Protection in an Education setting**;

2.8 took note of the report “Profiling and Convention 108+ : Report on developments after the adoption of Recommendation (2010)13 on profiling” by Mr Yves Pouillet and Mr Benoit Frénay, held an exchange of views with the experts on the draft Recommendation on **profiling** and invited Delegations to comment by 11 December the revised version of the draft that will be circulated after the meeting, instructing the Bureau to finalise the draft which will be submitted to the Committee for approval by written procedure, in view of its transmission to the Committee of Ministers by the Steering Committee on Media and Information Society (CDMSI);

2.9 took note of the presentation by Mr Pat Walshe of his report on “**Digital identity**”, held an exchange of views with the expert and invited Delegations to send comments until 4 December 2020, before the finalisation of the report by the expert. The Committee instructed the Bureau to start the preparation of specific guidance possibly in the form of guidelines on data protection and digital identity;

2.10 took note of the presentation by Mr Colin Bennett of his report on “Personal data processing by and for **political campaigns**: the application of the modernised Convention 108”, held an exchange of views with the expert and invited Delegations to send comments until 4 December 2020, before the finalisation of the report by the expert. The Committee instructed the Bureau to start the preparation of specific guidance possibly in the form of Guidelines on this important topic;

2.11 took note of the information on **co-operation with other Council of Europe bodies** and entities, notably with:

- the Steering Committee for the **Rights of the Child** (CDENF). The Committee took note of the information provided by Ms Eva Lievens, consultant for the CDENF on the “draft Declaration on the need to intensify efforts to respect and protect children’s privacy in the digital environment” jointly prepared by the CDENF and the Committee, held an exchange of views on the draft and comments received and instructed the Bureau to finalise the draft Declaration in coordination with the Bureau of the CDENF with a view to a submitting the draft Declaration to written procedure;

- the Ad Hoc Committee on **Artificial Intelligence** (CAHAI) on the publication of its progress report, the preparation of the feasibility study and the work of its Policy Development Group and Consultation and Outreach Group, ahead of the forthcoming Plenary meeting of CAHAI (15-17 December);

- the Committee of the Convention on the **Manipulation of Sports Competitions** (Macolin Convention) on the use of the jointly elaborated “*Data Protection Standards*” in different capacity building activities, and on the follow up on the outcome of these activities to be also discussed at the next plenary meeting of the Committee;

- the Steering Committee on **Media and Information Society** (CDMSI), in particular the work of Committee of Experts on Freedom of Expression and Digital Technologies (MSI-DIG) and of the Committee of Experts on Media Environment and Reform (MSI-REF);

2.12 took note of the information provided by the Secretariat on the recent updating of the compilation of the case law of the European Court of Human Rights;

2.13 took note of the presentation by the Secretariat on the overview of activities and major developments in the field of data protection, notably on the publication of the compilation containing the updates provided by delegations, but also regarding the three joint statements issued by the Chair of the Committee of Convention 108 and the Data Protection Commissioner of the Council of Europe, a) on the right to data protection in the context of the COVID-19 pandemic (published on 30 March 2020), b) on Digital Contact Tracing (published on 28 April 2020), c) on “Better protecting individuals in the context of international data flows: the need for democratic and effective oversight of intelligence services” (published on 7 September), and on the publication of the first annual data protection report in Parties to Convention 108, “Digital Solutions to fight Covid-19” of the “Compilation of answers to the questionnaire on supervisory authorities’ governance models”;

2.14 took note of the information provided by **observers**, in particular by the Global Privacy Assembly (GPA) on the Closed Session of the GPA held on 13-15 October 2020 via videoconference which decided on the follow up to the policy strategy (advancing privacy in the digital age, maximising the conference’s voice and influence, building capacities with members), carried out detailed discussions on Covid-19 and data protection, adopted 5 resolutions (Resolution on Facial Recognition Technology, Resolution on the Role of Personal Data Protection in International Development Aid, International Humanitarian Aid and Crisis Management, Resolution on Accountability in the Development and Use of Artificial Intelligence, Resolution on the Privacy and Data Protection Challenges arising from the Covid-19 Pandemic, Resolution on Joint Statements on Emerging Issues), elected new members on the executive committee and confirmed the organisation of the next edition of the conference in October 2021 in Mexico City;

2.15 examined three requests for **observer status** before the Committee and in line with article 4bis of the Rules of Procedure granted observer status to the Office of the Privacy Commissioner for Bermuda, the Open Net Association, Korea (ONK) and Access Now;

2.16 took note of the information provided by the Secretariat on the launch of the 3rd Edition of the **Stefano Rodotà prize** and invited delegations to publicise the call for applications;

2.17 took note of the presentation by Ms Eleni Kosta, providing an update of the situation since the adoption in 2014 of the Opinion on the implications for data protection of mechanisms for **automatic inter-state exchanges of data** for administrative and tax purposes (document T-PD(2014)05), held an exchange of views with the expert and instructed the Bureau to follow-up this work with a view to having an updated expert report for the next Plenary meeting;

2.18 took note of the presentation by the Secretariat on the **interpretation of provisions** that was requested by one delegation, held an exchange of views based on the draft document (T-PD(2020)06) and decided that a revised version reflecting the comments made will be circulated ahead of the Bureau meeting, inviting Delegations to make further comments until 11 December in view of the finalisation of the document by the Bureau and subsequent adoption by written procedure;

2.19 held an exchange of views on the opportunity to initiate work on a **Guidance Note on Article 11** of Convention 108+ and instructed the Bureau to start working on the preparation of this Guidance;

2.20 held the **elections** of the Bureau and elected or re-elected: Ms Alessandra Pierucci (Italy) as Chair, Ms Tamar Kaldani, (Georgia) as first Vice-Chair, Ms Awa Ndiaye (Senegal) as second Vice-Chair, and Ms Elsa Mein (Germany), Mr Alan Khubaev (Russian Federation), Ms Caroline Gloor Scheidegger (Switzerland) and Mr Gonzalo Sosa Barreto (Uruguay) as members;

2.21 took note of the information provided by the Secretariat concerning the **co-operation programmes** that are being implemented in the data protection field;

2.22 took note of the information provided by the **Data Protection Commissioner** regarding his 2018-2020 activity report and repeated the importance for the Organisation of adopting internal regulations complying Convention 108+;

2.23 confirmed the dates of the plenary meetings to be held from 28-30 June 2021 and 17-19 November 2021 and of the next Bureau meetings from 16-18 December 2020, from 24-26 March 2021, from 28-30 September 2021 and from 20-22 December 2021.

APPENDIX I

AGENDA

	1. Opening of the meeting
T-PD(2019)RAP39Abr	Abridged report of the 39 th Plenary meeting (Strasbourg, 19-21 November 2019)
T-PD-BUR(2019)50RAP	Abridged report of the 50 th Bureau meeting (remote, 28-29 September 2020)
T-PD(2019)WP2020-2021final	Work programme of the Committee 2020-2021
T-PD(2017)Rules	Rules of procedure
	2. Adoption of the agenda
	3. Statement by the secretariat
	Jan Kleijssen, Director, Information Society and Fight against Crime Directorate
	4. Modernisation of Convention 108
	<u>Required action:</u> 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">• Explanatory report of the modernised Convention 108
	<ul style="list-style-type: none">• Amending Protocol
	5. State of play, ratifications and accessions
Draft Opinion Costa-Rica <i>published 16/11</i>	<ul style="list-style-type: none">• Convention 108+: chart of signatures and ratification• Convention 108: chart of signatures and ratifications <p>Expert: Mr Franck Dumortier, Senior Consultant, Cybersecurity-Law</p> <p><u>Required action:</u> The Committee will take note of the information provided by the expert and will hold an exchange of views on the draft Opinion.</p>
	6. Evaluation and follow up mechanism under Convention 108+
	Expert: Ms Cécile de Terwangne, CRIDS, Namur

	<p><u>Required action:</u> The Committee will take note of the information provided by the expert and will hold an exchange of views on the latest versions of the documents.</p>
Terms of Reference	ToR of the Working Group on the evaluation and monitoring mechanism
T-PD(2018)20rev6 <i>published 03/11</i>	Evaluation questionnaire
T-PD(2018)21rev6	Document on the evaluation and follow-up mechanism under Convention 108+: process and rationale
	7. Law enforcement transborder access to data
T-PD(2019)8FIN Opinion on the provisional text and explanatory report of the draft Second Additional Protocol to the Budapest Convention on Cybercrime (ETS 185) on direct disclosure of subscriber information and giving effect to orders from another Party for expedited production of data	<p>Expert: Mr Gert Vermeulen, Full Professor of (European and international) criminal law and director of the Institute for International Research on Criminal Policy (IRCP).</p> <p><u>Required action:</u> The Committee will take note of the information provided by the expert and the Secretariat and will decide on any necessary follow-up.</p>
	<p>T-PD(2019)3</p> <p>Preparation of a 2nd Additional Protocol to the Budapest Convention on Cybercrime: Consultation with data protection experts - Issues for discussion</p> <p>T-CY discussion paper: Conditions for obtaining subscriber information –static versus dynamic IP addresses</p> <p>Answers from the Committee of Convention 108 to the Discussion paper for the Octopus Conference</p> <p>Key messages of the Octopus Conference 2018</p> <p>Towards a Protocol to the Convention on Cybercrime: additional stakeholder consultations <i>published 12/11</i></p>
	8. Facial recognition
T-PD(2020)3rev	<p>Expert: Ms Sandra Azria, Avocat (TBC)</p> <p><u>Required action:</u> The Committee will take note of the presentation by the Secretariat and will examine the draft Guidelines with a view to further enhancing the draft.</p>
	9. Data protection in an education setting
T-PD(2019)06BISrev4	Expert: Ms Jen Persson, Director, “defenddigitalme”

<p><i>published 23/10</i> T-PD(2019)06rev <i>published 23/10</i> T-PD(2019)-06Bisrev3Mos2 – Compilation of Comments <i>published 17/11</i></p>	<p><u>Required action:</u> The Committee will endorse the expert report and will examine the draft Guidelines with a view to enabling the finalisation and adoption of the draft.</p>
	<p>10. Update of the Recommendation CM/Rec(2010)13 on the protection of individuals with regard to automatic processing of personal data in the context of profiling</p>
<p>Recommendation CM/Rec(2010)13 T-PD(2019)07FINAL T-PD(2019)07BISrev3 <i>published 23/10</i></p> <p>T-PD(2019)-07Bisrev2Mos2 – Profiling – Compilation of Comments <i>published 17/11</i></p>	<p>Experts: Mr Yves Poulet, Honorary Rector of the University of Namur, former Director of the Research Center for Computer Science and Law (CRIDS) and Mr Benoit Frénay, associate professor at the Faculty of Computer Science, CRIDS</p> <p><u>Required action:</u> The Committee will endorse the expert report and will examine the draft Revised recommendation with a view to enabling the finalisation and approval of the draft, for transmission to the Steering Committee on Media and Information Society (CDMSI)</p>
	<p>11. Digital identity</p>
<p>T-PD(2020)4rev</p>	<p>Expert: Mr Pat Walshe, Director of Privacy Matters</p> <p><u>Required action:</u> The Committee will take note of the report and will hold an exchange of views with the expert, with a view to enabling the finalisation of the report and deciding on the necessary follow-up.</p>
	<p>12. Personal data processing by and for political campaigns</p>
<p>T-PD(2020)2rev</p>	<p>Expert: Mr Colin Bennett, Professor, Department of Political Science, University of Victoria</p> <p><u>Required action:</u> The Committee will take note of the report and will hold an exchange of views with the expert, with a view to enabling the finalisation of the report and deciding on the necessary follow-up.</p>
	<p>13. Cooperation with other Council of Europe bodies and entities</p>
<p>CDENF(2020)28 - compilation of comments <i>published 16/11</i></p>	<p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat and will examine the draft declaration jointly prepared with the CDENF in view of its possible approval.</p>
<p>Draft Text of the Declaration on the rights of the child in the digital environment Compilation of comments <i>published 16/11</i></p>	<ul style="list-style-type: none"> • CAHA • Steering Committee on the Rights of the child (CDENF) • Macolin Convention • Steering Committee on Media and Information Society (CDMSI)

	14. Case-Law
ECHR Compilation <i>published 12/11</i> Court of Justice of the European Union Inter-American Court of Human Rights	<p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat.</p>
	15. Overview of activities and major developments
T-PD(2018)24rev2 <i>published 10/11</i> T-PD(2020)Mos - Information on the recent developments in the data protection field <i>publié le 18/11</i>	<p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat and delegates.</p> <p>Data Protection Report 2020: “Digital solutions to fight Covid-19”</p> <p>Joint Statements</p> <p>Joint Statement on the right to data protection in the context of the COVID-19 pandemic by Alessandra Pierucci, Chair of the Committee of Convention 108 and Jean-Philippe Walter, Data Protection Commissioner of the Council of Europe</p> <p>Joint Statement on Digital Contact Tracing by Alessandra Pierucci, Chair of the Committee of Convention 108 and Jean-Philippe Walter, Data Protection Commissioner of the Council of Europe</p> <p>“Better protecting individuals in the context of international data flows: the need for democratic and effective oversight of intelligence services” Joint statement by Alessandra Pierucci, Chair of the Committee of Convention 108 and Jean-Philippe Walter, Data Protection Commissioner of the Council of Europe</p> <p>DPA Governance models – updated version</p>
	16. Observers
List of Observers Observers - State of play and admission criteria T-PD(2020)09 <i>new: published 17/11</i>	<p><u>Required action:</u> The Committee will decide upon the requests received and will take note of the information provided by the observers.</p>
	17. Stefano Rodotà Award
2021 Competition rules	<p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat in respect of both the 2020 and the 2021 Edition of the Award.</p>
	18. Automatic Exchange of data

<p>T-PD(2014)05 Opinion on the implications for data protection of mechanisms for automatic inter-state exchanges of data for administrative and tax purposes</p>	<p>Expert: Eleni Kosta, Professor of Technology Law and Human Rights, Tilburg Institute for Law, Technology, and Society (TILT), Tilburg University</p> <p><u>Required action:</u> the Committee will take note of the presentation by the expert and will hold an exchange of views on the topic.</p>
	<p>19. Interpretation of provisions</p>
<p>T-PD(2020)06 <i>published 26/10</i></p>	<p><u>Required action:</u> The Committee will discuss the guidance to be provided in the interpretation of provisions of Convention 108+ as requested by a delegation during the 39th Plenary meeting.</p> <p>The Committee will decide on the opportunity to initiate work on the interpretation of Article 11 of Convention 108+ as supported by its Bureau.</p>
	<p>20. Elections</p>
<p>T-PD(2020)05 Memorandum concerning elections</p>	<p><u>Required action:</u> The Committee will proceed to the elections</p>
	<p>21. Cooperation projects</p>
<p>T-PD(2020)07 <i>published 03/11</i></p>	<p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat</p>
	<p>22. Data Protection Commissioner</p>
<p>Activity report DPCOM Report 2018-2020 <i>published 02/11</i></p>	<p><u>Required action:</u> The Committee will take note of the information provided by the Commissioner.</p>
	<p>23. Next meetings</p>
	<p><u>Required action:</u> The Committee will take note of the dates for the next meetings.</p>

	<p>Date of the next meeting in 2020</p> <p><u>Date of the Bureau meeting:</u></p> <ul style="list-style-type: none"> • 51st Bureau meeting (16-18 December, online) <p>Dates of next meetings in 2021</p> <p><u>Dates of Bureau meetings:</u></p> <p>52nd Bureau : 24-26 March 2021 53rd Bureau : 28-30 September 2021 54th Bureau : 20-22 December 2021</p> <p><u>Dates of Plenary meetings:</u></p> <p>41st Plenary : 28-30 June 2021 42nd Plenary : 17-19 November 2021</p>
	<p>24. Any Other Business</p>

APPENDIX II

LIST OF PARTICIPANTS

ALBANIA / ALBANIE

Eldor Budo, Head of Sector, International Relations & Projects, Department of Communication and International Relations, Information and Data Protection Commissioner (IDP)

Besnik Dervishi, Commissioner, Information and Data Protection Commissioner (IDP)

Pjerina Gaxha, Director of the Directorate of Personal Data Protection, Information and Data Protection Commissioner (IDP)

ANDORRA / ANDORRE

Joan Crespo, Head of the Data Protection Agency

ARGENTINA / ARGENTINE

Eduardo Andrés Bertoni, Directeur de l'Agence d'Accès à l'Information Publique (AAIP)

Eduardo Cimato, Director of the National Directorate of Personal Data Protection, Access to Public Information Agency (AAIP)

Juan Agustin Otero, Legal advisor, Access to Public Information Agency (AAIP)

Agustina Sirvén, Legal advisor, Access to Public Information Agency (AAIP)

ARMENIA / ARMENIE

Gevorg Hayrapetyan, Head of the Personal Data Protection Agency, RA Ministry of Justice

AUSTRIA / AUTRICHE

Michael Adelman, Lawyer, Austrian Data Protection Authority

AZERBAIJAN / AZERBAÏDJAN

Khayala Babayeva, Chief adviser of Personal Data Department of the Cyber Security Service, Ministry of Transport, Communications and High Technologies of the Republic of Azerbaijan ((MTCHT)

Kamal Mammadov, Head of Science and Technology Sector, Innovation and Digital Development Department Ministry of Transport, Communications and High Technologies (MTCHT)

Nargiz Pashayeva, Senior Adviser, Division on administrative and military normative acts of General Department of Legislation, Ministry of Justice

BELGIUM / BELGIQUE

Damien Moreau, Attaché, SPF Justice

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BOSNIA AND HERZEGOVINA / BOSNIE ET HERZÉGOVINE

Samira Čampara, Assistant director, Personal Data Protection Agency in Bosnia and Herzegovina

CABO VERDE / CAP VERT

Faustino Monteiro, Président, Commission de protection des données

Jose Pina, Commission de protection des données

CROATIA / CROATIE

Nikolina Novaković, Senior Associate in the Department for International Cooperation, European and Legal Affairs, Personal Data Protection Agency

Zdravko Vukić, Director, Personal Data Protection Agency

CYPRUS / CHYPRE

Maria Michaelidou, Office of the Commissioner for Personal Data Protection

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Jiří Maštálka, Lawyer, Office for Personal Data Protection

DENMARK / DANEMARK

Astrid Ivens de Carvalho, Head of section, Master of laws, Data Protection Agency

ESTONIA / ESTONIE

Maarja Kirss, Co-operation Adviser, Estonian Data Protection Inspectorate

FINLAND / FINLANDE

Virpi Koivu, Senior Specialist, Department for Democracy and Public Law, EU Law and Data Protection, Ministry of Justice

FRANCE

Nana Botchorichvili, Juriste, Service des Affaires européennes et internationales (CNIL)

Vincent Filhol, Chargé de mission pour les affaires civiles et pénales internationales auprès du Directeur des affaires juridiques du Ministère de l'Europe et des Affaires étrangères

Pascale Serrier, Pole Education au numérique, Commission nationale de l'informatique et des libertés (CNIL), Digital Education – Coordinateur du groupe international du GPA en éducation au numérique (DEWG) Digital Education Working Group

GEORGIA / GÉORGIE

Tamar Kaldani, (first Vice-Chair / première Vice-présidente)

Londa Toloraia, State Inspector of Georgia, State Inspector's Service

Tamar Zubashvili, Head of International Relations, Analytics and Strategic Development Department, State Inspector's Service

GERMANY / ALLEMAGNE

Elsa Mein, Desk Officer, Data Protection Unit (V II 4), Federal Ministry of the Interior, Building and Community

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LUXEMBOURG

Pia Betz, Juriste, Service des médias et des communications, Ministère d'Etat

Tatiana Isnard, Juriste, Protection des données, Service des médias et des communications, Ministère d'État

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

MALTA / MALTE

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MAURITIUS / MAURICE

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MEXICO / MEXIQUE

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Francisco Javier Acuña Llamas, President Commissioner, National Institute of Transparency, of Access to Information and Data Protection (INAI)

Maria Rojo, Interpreter, National Institute of Transparency, of Access to Information and Data Protection (INAI)

Josefina Román Vergara, Commissioner, National Institute of Transparency, of Access to Information and Data Protection (INAI)

MONACO

Corinne Laforest de Minotty, Chargée de missions auprès du Conseiller de gouvernement, Département des relations extérieures et de la coopération, Ministère d'État

Florence Dubosc, Juriste, Commission de contrôle des informations nominatives (CCIN)

MOROCCO / MAROC

Brahim Bouabid, Membre de la Commission, Commission Nationale de contrôle de la protection des Données à caractère Personnel (CNDP)

Omar Seghrouchni, Président, Commission Nationale de contrôle de la protection des Données à caractère Personnel (CNDP)

Fatima Zahrae Lebied, Cadre, Commission Nationale de contrôle de la protection des Données à caractère Personnel (CNDP)

NORTH MACEDONIA / MACÉDOINE DU NORD

Igor Kuzevski, Deputy Director, Personal Data Protection Agency

NORWAY / NORVÈGE

Inga Helene Gundersen, Ministry of Justice and Public Security

POLAND / POLOGNE

Urszula Góral, Director, International Cooperation and Education Department, Personal Data Protection Office (UODO)

Iwona Piórkowska-Kapica; International Relations and Education Department, Personal Data Protection Office (UODO)

PORTUGAL

João Pedro Cabral, Legal Adviser, Directorate General of Justice Policy, Ministry of Justice

REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA

Angela Colomiicenco - Head of Legal Division, National Center for Personal Data Protection

Victoria Muntean - Deputy Director, National Center for Personal Data Protection

Eduard Răducan, Director, National Center for Personal Data Protection of Moldova

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Aisalu Badyagina, Head of Division for Regulation in the Sphere of Data Processing, Department for Information Security, Ministry of Digital Development, Communications and Mass Media

Margarita Belyakova, Counsellor, Department for Information Security, Ministry of Digital Development, Communications and Mass Media

Andrey Donchenko, Deputy head of the Department for cooperation with foreign countries, Department for international cooperation, Ministry of Telecom and Mass Communications

Olga Emuranova, Assistant, Department for the protection of the rights of personal data subjects of Roskomnadzor

Alfiya Gafurova, Head of Department for Legal and Methodological Support, Federal Service for Supervision of Communications, Information Technology, and Mass Media, Roskomnadzor

Alan Khubaev, Consultant, Division for Regulation in the Sphere of Data Processing, Department for Information Security, Ministry of Digital Development, Communications and Mass Media

Yuri Kontemirov, Head of the Office for the protection of the rights of subjects of personal data, Roskomnadzor

Konstantin Kosorukov, Deputy to the Permanent Representative of the Russian Federation to the Council of Europe

Amir Saryglar, Chief specialist-expert, Department of cooperation with foreign States, Department of international cooperation, Ministry of Telecom and Mass Communications

Elena Sukhanova– 2nd Secretary, Department of European Cooperation, Ministry of Foreign Affairs

Anastasia Toropova, Third Secretary, Law Department, Ministry of Foreign Affairs

Milosh Wagner, Deputy Head, Roskomnadzor

Maria Yukhno, Deputy to the Permanent Representative of the Russian Federation to the Council of Europe

Olga Zinchenko, Third Secretary, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs

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APPENDIX III

Key Elements of the Statement delivered by Jan Kleijssen, Director, Information Society – Action against Crime, DGI

It is regrettable that the CoE cannot physically host in Strasbourg the 40th plenary meeting of the Committee, which follows the 50th Bureau meeting, also organised online late September. The Secretariat's intention to celebrate with the Committee those two key milestones, a 50th and a 40th Edition, has had to be adjusted unfortunately.

The last Plenary of the Committee was held a year ago, and that in the current difficult circumstances, one Plenary meeting this year, instead of the two planned, is certainly not ideal, even more so as the only possibility to hold this plenary meeting is via teleconferencing. The Secretariat is extremely grateful to all participants for their commitments and readiness to be on the call, with various time zones, and to contribute to the work of the Committee.

In relation to the 70th anniversary of the European Convention on Human Rights celebrated in Athens on 4 November 2020 and in light of difficult situations Member States are facing, the Foreign Affairs Ministers of the Organisation's 47 member States have reiterated their commitment to unity in Europe and stronger solidarity between its nations by deep commitment to upholding, implementing and reinforcing the values, principles and rights enshrined in the European Convention on Human Rights.

The Council of Europe has published various guidance in relation to the global crisis caused by Covid19:

in April 2020 a toolkit for member states "Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis" by the Secretary General was published

the complementary report by the Secretary General "Council of Europe contribution to support member states in addressing healthcare issues in the context of the present public health crisis and beyond" which calls member States to work together to learn COVID-19 health crisis lessons was published in September 2020 in which privacy and personal data protection figures prominently.

In order to assist Parties to Convention 108 in addressing privacy and data protection issues when setting up and implementing measures in view of the fight against the Covid-19 pandemic two joint statements have been issued by the Chair of the Committee of Convention 108 and the Data Protection Commissioner of the Council of Europe:

one on the right to data protection in the context of the COVID-19 pandemic (published on 30 March 2020)

one on Digital Contact Tracing (published on 28 April 2020)

These statements recall that general principles and rules of data protection are fully compatible and reconcilable with other fundamental rights and relevant public interests, such as public health. It is important that in our endeavours to curb the pandemic caused by COVID 19 we should not let the very fabric of our society be destroyed. It is essential to ensure that data protection frameworks continue to protect individuals, even more so in times crisis. Furthermore, it should be underlined that they provide that necessary privacy and data protection safeguards are to be incorporated in extraordinary measures that are taken to protect public health.

A third joint statement has also been published in relation to the 'Schrems II' judgment of the CJEU, which invalidated the "Privacy Shield" agreement between the EU and the USA on data transfers. The Council of Europe follows with great interest the discussions around a possible meaningful

engagement by the government of the United States on Schrems II, which could include the recognition of the right to privacy as a fundamental human right and the adoption of a federal bill on privacy, which discussions are also greatly steered and supported by senior representatives of companies with whom the CoE has entered into strategic partnership in November 2017.

The Chair and the Data Protection Commissioner have taken important positions on those three occasions, in a timely manner and for the benefits of the data protection community. We hope that the last joint statement on transborder data flows will lead to further reflexions on the role of the Convention.

The report entitled “Digital solutions to fight COVID-19” was published on 12 October 2020 which deals with the issue of how personal data are processed in the 55 State Parties of Convention 108 in relation to the crisis caused by COVID-19. The report showcases commendable practices that have been followed by Parties (such as the use of privacy impact assessment and privacy by design principles in the shaping and implementation of digital solutions to support public health measures) and those that needed to be improved (for example the mandatory use of contact tracing app for the whole population or measures taken in a state of emergency without time limit).

A webinar on “Setting democratic global standards for intelligence agencies: the way forward” organised jointly by MEP Sophie in 't Veld and the Data Protection Unit last week which could serve as an inspiration for a possible Guidance Note on art 11 to be elaborated by the Committee.

Another important event started last week: the IGF (Internet Governance Forum) to which the Council of Europe has – like every year – contributed significantly, on a broad range of topics (data protection, artificial intelligence, anti-discrimination, media literacy, freedom of expression and hate speech). A workshop co-organised by the Data Protection Unit with ISOC France, China Internet Development Foundation and CyberSecurity Association of China on the Protection of Personal Data and Privacy in the Prevention and Control of COVID-19 has showcased examples from different regions of the world on the protection of personal data and privacy in relation to the measures taken to curb the global pandemic crisis caused by COVID-19.

State Parties’ (precise details will be provided by the Secretariat under Agenda Point 4) efforts in ratifying the Amending Protocol are to be praised and state Parties which have signed but not yet ratified are to be encouraged to proceed with the ratification process as well as those which have neither signed nor ratified to initiate without delay their national process in line with the decision adopted at the Elsinore Ministerial session of 18-19 May 2018 on the need of a speedy accession to the modernised Convention 108. The Committee of Ministers is also following closely the process of signature and ratification via its Group of Rapporteurs on Legal Cooperation (GR-J) and is requesting twice a year information from state Parties while calling on them for a quick signature and ratification; the GR-J will once again hold a tour de table on this next week.

On 1 December 2020, the Tromsø Convention on Access to Official Documents (CETS 205) will enter into force in ten Council of Europe member states (Bosnia and Herzegovina, Estonia, Finland, Hungary, Lithuania, Montenegro, Norway, Moldova, Sweden, and Ukraine). In many jurisdictions, access to information and data protection are entrusted to a single authority competent for both, which is the case for several of the countries participating in the work of the Committee, and we therefore consider this information of specific relevance to some of you. A first meeting of the Parties to the Convention will be organised once the Convention has entered into force, and synergies with the Committee of Convention 108 will be sought and encouraged.

The Committee on Cybercrime (T-CY) issued last week draft provisions for the second additional Protocol to the Budapest Convention: open to public consultation on the following themes : Joint investigation teams and joint investigations, Expedited disclosure of stored computer data in an emergency, Request for domain name registration information. Further consultations are envisaged once a complete draft Protocol is available, that is, tentatively in February/March 2021. The Committee

of Convention 108 will be closely consulted on topics related to privacy and personal data protection. It is hoped that the second additional Protocol to the Budapest Convention will be adopted and opened for signature in 2021.

The CAHAI has been progressing on the substantive aspects of its mandate, with a Plenary meeting held before the summer and the setting-up of various working groups (PDG - Policy Development Group and COG - Consultation and Outreach Group) which met in October and in November 2020. The PDG produced a first version of the feasibility study which will be discussed at the next CAHAI plenary (15-17 December 2020) and the COG carried out an initial review of the stakeholders to be consulted and of the possible consultation tools.

A conference organised by the German Chairmanship of the Committee of Ministers (which starts today, when the Greek Chairmanship comes to an end) will also be held on 20 January 2021 (date to be confirmed) in order to address, with all stakeholders, the question of the scope and content of a regulation of AI. Your Committee will be invited to participate in this event.