



Strasbourg, 30 June 2021

T-PD(2021)41RAPAbr

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

(Convention 108)

41st Plenary meeting

Strasbourg, 28-30 June 2021
via videoconference

ABRIDGED REPORT

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 41th plenary meeting¹ via videoconference from 28 to 30 June 2021, with Ms Alessandra Pierucci (Italy) in the chair. 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 Patrick Penninckx, Head of Information Society Department (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) 32 signatures of Convention 108+, and 11 ratifications (Bulgaria and Croatia in 2019, Lithuania, Serbia, Poland, Mauritius – as the first African Party to ratify Convention 108+ –, Estonia, Cyprus, Malta and Finland in 2020, and Spain in 2021). Five Parties (Bulgaria, Cyprus, Estonia, Lithuania and Norway) used Article 37.3 of the amending protocol to declare they already apply Convention 108+ pending its entry into force.;
- b) on the occasion of the latest meeting of the Committee of Ministers' Rapporteur Group on Legal Cooperation (GR-J), which took place on 15 June 2021, the Rapporteur mentioned that according to information received from the Parties, 34 ratifications are expected by 11 October 2023. Therefore, the minimum of 38 ratifications to allow Convention 108+ to enter into force partially on 11 October 2023 will most probably not be met. It should be noted that the Committee of Ministers, in line with its decision adopted at the Elsinore Ministerial session of 18-19 May 2018 (CM/Del/Dec(2018)128/5), entrusted the GR-J to report on a six-month basis on the progress of signatures and ratifications of Convention 108+; efforts from all stakeholders involved to meet the above specified objective are needed and the Secretariat is ready to assist;
- c) in addition, and as regard Convention 108, the authorities of Burkina Faso informed the Secretariat that they have promulgated their new law on the protection of personal data. This opens the way to enter into the final steps for ratification of Convention 108 to which Burkina Faso was invited to accede by the Committee of Ministers in 2017;

2.3 took note of the information provided by Ms Fiorella Salazar Rojas, Minister of Justice and Peace of Costa-Rica regarding the legislative developments related to **Costa Rica's request for accession**. The Minister informed the Committee that the on-going legislative debates could have a direct impact on the laws assessed in the draft opinion on Costa Rica's request for accession and asked the Committee to postpone its decision in this respect. The Committee took note of the presentation by Mr Franck Dumortier on the amendments made to the opinion following recent exchanges with Costa-Rican authorities, held an exchange of views with the expert and the Costa Rican delegation, and decided to postpone the adoption of the opinion. It also requested the Costa-Rican authorities to provide regular updates on the national legislative process and outcome;

¹ 191 participants in all, 99 women and 92 men.

2.4 took note of the information provided by Ms Cécile de Terwangne on documents relating to the **evaluation and follow-up mechanism under Convention 108+**, took note of the information provided by the chair of the Working Group on the evaluation and follow-up mechanism (WG-EFM) in relation to the reflections within the group, held an exchange of views with the expert regarding the proposed modifications to the documents and additional considerations presented by the Secretariat on the feasibility of the procedures described in those documents, and agreed a) to postpone the adoption of the draft documents (T-PD(2018)20rev8, T-PD(2018)21rev8) to the next plenary meeting in November b) to instruct the Bureau to develop further the documents based on comments received and c) request the WG-EFM to prepare a report on possible benchmarks and measurable conditions in relation of the evaluation of the independence of supervisory authorities;

2.5 took note of the presentation by the Secretariat on the expedited procedure through which the Committee adopted its opinion on the Draft Second Additional Protocol (version 2) to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence (T-PD(2021)1rev3); the approval of the text of the draft Second Additional Protocol to the Budapest Convention on **Cybercrime** (ETS n°185) by the Committee on Cybercrime on 18 May 2021 and on the process towards its adoption by the Parliamentary Assembly and subsequently by the Committee of Ministers due in November 2021 and its possible opening for signature in Spring 2022, held an exchange of views and expressed its availability for further cooperation on cybercrime related matters with the T-CY;

2.6 took note of the presentation by Mr Pat Walshe on the draft “**Guidelines on Digital Identity and Data Protection**”, held an exchange of views with the expert and invited Delegations to send comments until 16 July 2021 and instructed the Bureau to develop it further based on comments received in view of its subsequent discussion at the 42nd Plenary meeting;

2.7 took note of the presentation by Mr Colin Bennett on the draft “**Guidelines on the Protection of Individuals with regard to the Processing of Personal Data by and for Political Campaigns**”, held an exchange of views with the expert and instructed the Bureau to develop it further based on comments received in view of its subsequent discussion at the 42nd Plenary meeting;

2.8 took note of the presentation by Ms Eleni Kosta on the “**Report on the implications for data protection of mechanisms for inter-state exchanges of data for Anti-Money Laundering/Countering Financing of Terrorism, and tax purposes**”, took note of the presentation by Mr Igor Nebyvaev, Secretary of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) on the work of Moneyval and of the Financial Action Task Force (FATF). The Committee held an exchange of views with the expert and instructed the Bureau to prepare draft guidelines, with the support of the Secretariat, based on the report and comments received, for consideration at its next Plenary meeting;

2.9 took note of the presentation by Ms Charlotte Dietrich on the “**Report on the need for a Guidance note on Article 11 of the modernised Convention 108**”, held an exchange of views with the expert and instructed the Secretariat to liaise with the expert, with a view to circulating the draft structure of the Guidance Note ahead of the next Bureau meeting in September. The Committee also instructed the Bureau to reflect on appropriate solutions for the drafting of the Guidance Note with the support of the Secretariat;

2.10 took note of the presentation by the Secretariat on the “[Work programme 2022-2025](#)” held an exchange of views and adopted it for the next four years subject to regular review and necessary adjustments;

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 adoption of the “Declaration on the need to intensify efforts to respect and protect children’s privacy in the digital environment” on 28 April by the Committee of Ministers jointly prepared with the CDENF, of the independent experts’ report “Respecting human rights and the rule of law when using automated technology to detect online child sexual exploitation and abuse (OCSEA)”, held an exchanges of views and instructed the Bureau to reflect on best possible follow ups to be given by the Committee to the independent expert report;

- **Ad Hoc Committee on Artificial Intelligence** (CAHAI). The Committee took note of the presentation by Alessandro Mantelero on the latest developments in the Legal Frameworks Group (CAHAI-LFG) and in particular on the provisional draft provisions developed by the working group making clear reference, in its Preamble, to Convention 108+, held an exchange of views and invited the Secretariat as well as all Delegations to remain attentive to the representation and active participation on behalf of the Committee in the work of the CAHAI and in particular of its working group 6 dealing with issues of red lines. The Committee expressed its support and availability in this respect;;

- **Committee of the Convention on the Manipulation of Sports Competitions** (Macolin Convention). The Committee took note of the presentation by Daniel Cooper on the “Macolin Convention *Data Protection Standards*”, took note of the presentation by Ms Sophie Kwasny, Secretary of the Committee on Manipulation of Sports Conventions, held an exchange of views with the expert and decided that the text will be adopted jointly with the Committee of Macolin Convention either at the plenary meeting in November 2021 or later by written procedure;

- **Steering Committee on Media and Information Society** (CDMSI) and its Committee of Experts on Media Environment and Reform (MSI-REF). The Committee took note of the information provided by Ms Urška Umek, Secretary of the Committee of Experts on Media Environment and Reform regarding the Ministerial Conference held on 10-11 June 2021 in Cyprus, as well as on the latest developments within MSI-REF and on the considerations given to the opinion of the Bureau on the draft Recommendation CM/Rec(20XX)XX of the Committee of Ministers to Member States on Electoral communication and Media Coverage of Election Campaigns (T-PD-BUR(2021)7);

- **Committee on Bioethics** (DH-BIO). The Committee took note of the joint publication of the statements on the one hand by DH-BIO on “Human Rights Considerations Relevant to “Vaccine Pass” and Similar Documents” and on the other hand by the Committee on “Covid-19 vaccination, attestations and data protection”;

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 information provided by the Secretariat on the organisation of the next round of competition for the Stefano Rodotà award;

2.14 took note of the overview of activities and major developments in the field of data protection, notably a) the presentation by Ms Catherine Pozzo di Borgo on the publication of the “Report on the financing of supervisory authorities”, and instructed the Secretariat to publish the report online, b) the presentation by the Secretariat on cooperation projects;

2.15 took note of the information provided by **observers** in particular by a) the Inter American Institute of Human Rights on the statement by Mr Joseph Thompson, Executive Director, delivered by Mr Eduardo Bertoni, Director of the Regional Office for South America, on the introduction of the Institute and its activities, notably in the field of academic research, promotion of human rights, education and diplomacy; b) the ICRC on the Digital Humanitarian Forum, the translation of the 2nd edition of the Handbook on data protection in humanitarian action into multiple languages, the Certification programme for data protection officers in the humanitarian field and the research and development activities undertaken in the field of privacy by design and privacy enhancing technologies, c) the EDPS on behalf of the Global Privacy Assembly the 43rd edition of the international conference of data protection and privacy commissioners to be held in Mexico City on 18-21 October 2021 in a hybrid format allowing personal participation of delegations as well;

2.16 took note of the presentation by the **Data Protection Commissioner** on his latest activities since the 40th plenary meeting; took note of the information provided by the Secretariat on the expiry of the 3 years' mandate of the Commissioner and on the upcoming adoption of the internal regulation on the protection of personal data by the Committee of Ministers (replacing the Secretary General's Regulation of 17 April 1989 instituting a system of data protection for personal data files at the Council of Europe). Based on the proposal by the Secretariat and on a decision on a similar case dating back to 2015, the Committee decided to maintain Mr Jean-Philippe Walter as Data Protection Commissioner ad interim until the 43rd plenary in June 2022, pending the adoption of the new Regulation which provides for new rules on the functions, terms and mandate of the Commissioner;

2.17 took note of the appointment of Ms Sophie Kwasny as Head of Division of the Sport Conventions and her subsequent departure from the Data Protection Unit, congratulated her for her outstanding support to the Committee, and welcome Ms Isabelle Servoz-Gallucci who replaced her as of 1 June;

2.18 confirmed the dates of the plenary meetings to be held from 17-19 November 2021 and of the next Bureau meetings from 28-30 September 2021 and from 20-22 December 2021.

APPENDIX I

AGENDA

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| | 1. Opening of the meeting |
| T-PD(2020)RAP40Abr | Abridged report of the 40 th Plenary meeting (18-20 November 2020) |
| T-PD-BUR(2021)52RAP | Abridged report of the 52 nd Bureau meeting (24-26 March 2021) |
| 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 |
| | Patrick Penninckx, Head of Information Society Department |
| | 4. Convention 108+ State of play, ratifications and accessions |
| | <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 |
| T-PD(2020)08rev Expert Report - Costa-Rica <i>New 11/06/2021</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 Costa-Rica representatives (TBC)</p> <p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat and the expert and will hold an exchange of views.</p> |
| | 5. Evaluation and follow up mechanism under Convention 108+ |
| | Expert: Ms Cécile de Terwangne, CRIDS, Namur |
| T-PD-BUR(2021)5 Information note on the procedures of various monitoring mechanisms | |

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| Terms of Reference | <p>ToR of the Working Group on the evaluation and monitoring mechanism</p> |
| <p>T-PD(2018)20rev8 <i>New 17/05/2021</i></p> <p>T-PD(2018)20rev8Mos (Compilation of comments) <i>New 23/06/2021</i></p> | <p>Questionnaire</p> |
| <p>T-PD(2018)21rev8 <i>New 17/05/2021</i></p> <p>T-PD(2018)21rev8Mos Compilation of comments <i>New 23/06/2021</i></p> | <p>Document on the evaluation and follow-up mechanism under Convention 108+: process and rationale</p> <p><u>Required action:</u> The Committee will take note of the information provided by the expert, will hold an exchange of views and decide on the necessary follow-up.</p> |
| | <p>6. Law enforcement transborder access to data</p> |
| <p>T-PD(2021)1rev3 - Opinion of the Committee of Convention 108 on the draft second additional Protocol to the Budapest Convention</p> <p>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> | <p>T-PD(2019)3</p> <p>Towards a Protocol to the Convention on Cybercrime: additional stakeholder consultations</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><u>Required action:</u> The Committee will take note of the information provided by the Secretariat.</p> |
| | <p>7. Digital identity</p> |
| <p>T-PD-BUR(2021)2rev <i>New 14/06/2021</i></p> <p>T-PD-BUR(2021)2revMos (Compilation of comments) <i>New 25/06/2021</i></p> | <p>Expert: Mr Pat Walshe, Director of Privacy Matters</p> <p><u>Required action:</u> The Committee will take note of the presentation by the expert of the preliminary draft of the Guidelines together with written comments received and will hold an exchange of views with the expert.</p> |
| | <p>8. Personal data processing by and for political campaigns</p> |
| <p>T-PD-BUR(2021)3rev <i>New 26/05/2021</i></p> <p>T-PD-BUR(2021)3revMos (Compilation of comments) <i>New 24/06/2021</i></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 presentation by the expert of the preliminary draft of the Guidelines together with written comments received and will hold an exchange of views with the expert.</p> |

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| | 9. Automatic Exchange of data |
| T-PD(2021)4 <i>New 04/06/2021</i> T-PD(2021)4Mos (Compilation of comments) <i>New 25/06/2021</i> T-PD(2014)05 - Opinion on the implications for data protection of mechanisms for automatic interstate exchanges of data for administrative and tax purposes | <p>Expert: Mrs Eleni Kosta, TILT, Tilburg University</p> <p><u>Required action:</u> The Committee will take note of the presentation by the expert of the preliminary study together with written comments received and will hold an exchange of views.</p> |
| | 10. Report on the need for a Guidance note on Article 11 of the modernised Convention 108 |
| T-PD(2021)6 <i>New 14/06/2021</i> T-PD(2021)6Mos (Compilation of comments) <i>New 25/06/2021</i> | <p>Expert: Ms Charlotte Dietrich, Project Manager, Digital Rights, Surveillance and Democracy, Stiftung Neue Verantwortung</p> <p><u>Required action:</u> The Committee will take note of the information provided by the expert with regard to the draft document on the guidance note together with written comments received and will hold an exchange of views.</p> |
| | 11. Work programme 2022-2025 |
| Draft work programme <i>New 16/06/2021</i> | <p><u>Required action:</u> The Committee will take note of the information provided by the Secretariat and will hold an exchange of views with a view to the adoption of the work programme.</p> |

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| | <p>12. Cooperation with other Council of Europe bodies and entities</p> |
| <p><u>New 18/05/2021</u></p> | <ul style="list-style-type: none"> • CAHAI Expert: Alessandro Mantelero, Associate Professor, Private Law, Polytechnic University of Turin • Steering Committee on the Rights of the child (CDENF) Declaration by the Committee of Ministers on the need to protect children's privacy in the digital environment • Steering Committee on Media and Information Society (CDMSI) T-PD-BUR(2021)7 - Opinion of the Bureau on the draft Recommendation of the Committee of Ministers to Member States on Electoral communication and Media Coverage of Election Campaigns • Committee on Bioethics (DH-BIO) Statement on Human Rights Considerations Relevant to "Vaccine Pass" and Similar Documents Covid-19 vaccination, attestations and data protection • The Convention on the Manipulation of Sports Competitions (the Macolin Convention) Data protection principles Expert: Daniel Cooper, Covington & Burling LLP <p><u>Required action:</u> The Committee will take note of the information provided by the experts and the Secretariat, will hold an exchange of views and decide on the necessary follow-up.</p> |
| <p>T-PD(2021)Mos - Information on the recent developments in the data protection field <u>New 04/06/2021</u></p> | <p>13. Major developments and activities in the field of data protection</p> |
| <p>T-PD(2021)2 <u>New 21/05/2021</u></p> <p>T-PD(2021)2Mos (Compilation of comments) <u>New 25/06/2021</u></p> <p>T-PD(2018)24rev2 <u>New 25/05/2021</u></p> <p>T-PD(2021)5 <u>New 31/05/2021</u></p> | <p>Report on the financing of supervisory authorities</p> <p>Expert: Ms Catherine Pozzo di Borgo</p> <p><u>Required action:</u> The Committee will take note of the information provided by the expert, by the Secretariat and delegates.</p> <p>Document of Information on cooperation projects</p> |

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| | 14. Observers |
| List of Observers Statement by the Executive Secretary of the Inter-American Institute of Human Rights (IHR) <i>New 24/06/2021</i> | <u>Required action:</u> The Committee will take note of the information provided by the observers. |
| | 15. Next meetings |
| | <u>Required action:</u> The Committee will take note of the dates for the next meetings. |
| | <p>Dates of next meetings in 2021</p> <p><u>Dates of Bureau meetings:</u></p> <p>53rd Bureau : 28-30 September 2021 54th Bureau : 20-22 December 2021</p> <p><u>Dates of the next Plenary meeting:</u></p> <p>42nd Plenary : 17-19 November 2021</p> |
| | 16. Data Protection Commissioner |
| | <ul style="list-style-type: none"> • Information by the Data Protection Commissioner • Information from the Secretariat. <p><u>Required action:</u> The Committee will take note of the information provided by the Commissioner and by the Secretariat.</p> |
| | 17. Any Other Business |

APPENDIX II

LIST OF PARTICIPANTS

MEMBERS OF THE COMMITTEE / MEMBRES DU COMITÉ

ALBANIA / ALBANIE

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

Blerta Xhako, Director of Legal Affairs and Integration Department, Information and Data Protection Commissioner (IDP)

ANDORRA / ANDORRE

Joan Crespo, Director, Data Protection Agency

ARGENTINA / ARGENTINE

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

Anastacia Dozo, Legal advisor, Access to Public Information Agency (AAIP)

Mauro Meloni, Legal advisor, Access to Public Information Agency (AAIP)

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

AUSTRIA / AUTRICHE

Michael Adelman, Lawyer, Austrian Data Protection Authority

AZERBAIJAN / AZERBAÏDJAN

Khayala Babayeva, Senior Consultant of Personal Data Protection Department at Cyber Security Service, Ministry of Transport, Communications and High Technologies (MTCHT)

Vugar Hasanov, Lead consultant, Innovations and Digital development Department, Ministry of Transport, Communications and High Technologies

Kamal Mammadov, Head of Section, Innovations and Digital development Department, Ministry of Transport, Communications and High Technologies

Nargiz Pashayeva, General Department of Legislation, Ministry of Justice

BELGIUM / BELGIQUE

Amandine Honhon, Cheffe de service f.f., Service Privacy & Egalité des chances, DG Législation, Libertés et Droits fondamentaux, SPF Justice

BOSNIA AND HERZEGOVINA / BOSNIE ET HERZÉGOVINE

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

Vesna Pehar, Assistant Director, Department for International Cooperation and Public Relations, Personal Data Protection Agency in Bosnia and Herzegovina

BULGARIA / BULGARIE

Hristo Alaminov, Head of International Cooperation and Project Management Department, Commission for personal data protection

Mariya Zlatkova, Senior Expert International Cooperation and Project Management Department, Commission for personal data protection

CABO VERDE / CAP VERT

Faustino Varela Monteiro, Président, Commission de protection des données

Jose Maria Pina, Commission de protection des données

Djamilson Pinto, Commission de protection des données

CROATIA / CROATIE

Nikolina Novaković, Advisor, Department for International Cooperation, European and Legal Affairs, Personal Data Protection Agency

Zdravko Vukić, Director, Personal Data Protection Agency

Igor Vulje, Deputy Director, Personal Data Protection Agency

CYPRUS / CHYPRE

Zosimas Zosimas, Officer, 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

Lukas Alexander Schomacker, Head of Section, Ministry of Justice

Lasse Øster Vinther, Head of Section, Ministry of Justice

ESTONIA / ESTONIE

Pile Lehis, Director General, Data Protection Inspectorate

FINLAND / FINLANDE

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

Pilvi Rämä, Deputy to the Permanent Representative, Permanent Representation of Finland to the Council of Europe

FRANCE

Sophie Bory, Legal and Policy Officer, European and International Affairs department, Commission nationale de l'informatique et des libertés (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

GEORGIA / GÉORGIE

Salome Bakhsoliani – Deputy State Inspector, State Inspector's Service of Georgia

Mariam Elkanashvili, International Relations and Legal Matters Coordinator, State Inspector's Service

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

Stefan Niederer, Senior Data Protection Officer, Division 14 – European and International Affairs, Office of the Federal Commissioner for Data Protection and Freedom of Information

GREECE / GRÈCE

Vagelis Papakonstantinou, Professor of Personal data law in the Faculty of Law and Criminology, Vrije Universiteit Brussel(VUB-LSTS), Lawyer, Ministry of Justice

ICELAND / ISLANDE

Rósa Dögg Flosadóttir, Deputy Director, Icelandic Data Protection, Ministry of Justice

IRELAND / IRLANDE

Derek Flanagan, Assistant Principal Officer, Civil Justice Legislation, Assistant Principal Officer, Department of Justice

ITALY / ITALIE

Alessandra Pierucci, (Chair / Présidente)

LATVIA / LETTONIE

Jānis Kārklīņš, Ambassador Extraordinary and Plenipotentiary, Permanent Representative, Permanent Representation of Latvia to the Council of Europe

Jekaterina Macuka, Director, The Data State Inspectorate (DSI)

LIECHTENSTEIN

Julia Stuetz, Legal Officer, Data Protection Authority

LITHUANIA / LITUANIE

Danguolė Morkūnienė, Deputy Director, State Data Protection Inspectorate

LUXEMBOURG

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

MALTA / MALTE

Ingrid Camilleri, B.A., LL.D., Head – Legal, Office of the Information and Data Protection Commissioner

MAURITIUS / MAURICE

Pravina Dodah, Principal Data Protection Office, Data Protection Commissioner

Rushda Goburdhun, Data Protection Officer, Senior DPO, Data Protection Commissioner

Reza Mukoon, Data Protection Officer, Senior DPO, Data Protection Commissioner

MEXICO / MEXIQUE

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

Laura Sofía Gómez Madrigal, Director General for International Affairs, National Institute of Transparency, of Access to Information and Data Protection (INAI)

Mariana Gómez Rodríguez, Director of International Data Affairs, General Direction of International Affairs, 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

Agnès Lepaulmier, Secrétaire général, Commission de Contrôle des Informations Nominatives (CCIN)

MOROCCO / MAROC

Mouna Lafrem, Cadre, Commission Nationale de contrôle de la protection des Données à caractère Personnel (CNDP)

Ismail Iraqui Houssaini, Cadre, 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)

NORTH MACEDONIA / MACÉDOINE DU NORD

Igor Kuzevski, Deputy Director, Personal Data Protection Agency

NORWAY / NORVÈGE

Inga Helene Gundersen, Legal Adviser, Ministry of Justice and Public Security

POLAND / POLOGNE

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

PORTUGAL

Inês Oliveira, Data Protection Officer, Directorate General of Justice Policy, Ministry of Justice

REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA

Angela Colomiicenco – Deputy 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 Department of Cybersecurity, Ministry of Telecom and Mass Communications

Margarita Belyakova, Deputy Head, Department of Cybersecurity, Ministry of Telecom and Mass Communications

Alan Khubaev, Khubaev Alan, Assistant, Department of Cybersecurity, Ministry of Telecom and Mass Communications

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

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-Subbotina, 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

SAN MARINO / SAINT MARIN

Nicola Fabiano, President of the San Marino Data Protection Authority

**SÃO TOMÉ AND PRÍNCIPE NATIONAL AGENCY OF PROTECTION OF PERSONAL DATA (ANPDP) /
AGENCE NATIONALE DE PROTECTION DES DONNÉES PERSONNELLES DE SÃO TOMÉ ET
PRÍNCIPE (ANPDP)**

José Manuel Mucumbo Costa Alegre, Président

SENEGAL / SÉNÉGAL

Awa Ndiaye, Présidente, Commission de Protection des données personnelles (CDP)

Mamoudou Niane, Secrétaire Permanent, Commission de Protection des données personnelles (CDP)

Mohamed Diop, Directeur des Affaires Juridiques, Commission de Protection des données personnelles (CDP)

Adama Sow, Directeur de la Communication et des relations publiques, Commission de Protection des données personnelles (CDP)

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APPENDIX III

Key Elements of the Statement delivered by Patrick Penninckx, Patrick Penninckx, Head of Information Society Department - DGI

The last 7 months since the 40th plenary meeting in November 2020 have been particularly busy in events which is a sign of the importance many countries and stakeholders attach to the modernised Convention 108. Changes have also occurred in the Secretariat, as Ms Sophie KWASNY was appointed as Head of Division of the Sport Conventions and Ms Isabelle Servoz-Gallucci was appointed to replace her at the Data Protection Unit. Isabelle Servoz-Gallucci took up her functions on the 1st June.

Delegations are to be commended for their active participation notably in the celebration of the 40th anniversary of the opening to signature of Convention 108 and the 15th edition of the International Data Protection Day concerning which a compendium of events and activities has been published on the Secretariat's website. On this occasion, a strong support, for which we are all grateful, was given by the German Chairmanship of the Committee of Ministers, who in a Declaration "*reaffirmed the potential of Convention 108+ to become the international and widely shared standard of reference with a global remit on privacy and data protection in the digital age, facilitating transborder flows of personal data while guaranteeing an appropriate level of protection and supporting better regulatory co-operation at the international level*".

It should be underlined that the German Chairmanship also hosted on this occasion an online conference attended by the Chair of the Committee of Ministers and the Secretary General of the Council of Europe on "*Transborder transfers - Challenges of international data transfer from the perspective of the Convention 108+ and GDPR*" which was complemented by other events organised by the Secretariat at the same occasion, notably by:

- A Panel during the 2021 CPDP Conference on "40 Years of Data Protection and many more to come: Convention 108 and 108+"
- Three regional conferences (Asia, Africa, Latin-America) to take stock of the *input of Convention 108 in the world*
- The release of a special issue of the Computer Law and Security Review
- Special wishes for the Convention: those of the Chair of the Committee of Convention 108 and of the Data protection Commissioner of the Council of Europe
- 40 *Happy Anniversary messages* by members of the Data Protection Community

As those events reaffirmed, the utmost importance of the Amending Protocol to enter into force as expected should be stressed for that it could continue ensuring and developing further a strong and robust data protection system all over the world. State Parties' efforts should be praised in ratifying the Amending Protocol, 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 in May 2018.

In this respect, it should be noted that the president of the GR-J, the Swiss Ambassador, took part in the last Bureau meeting of the Committee, which is a clear and strong signal from the Committee of Ministers on the importance it gives to your work, the Committee and the Bureau and to the future collaboration in matters related to the protection of privacy and personal data but also to encourage State Parties in their ratification process.

It should also be noted that Burkina Faso has informed the Secretariat that the national law on the protection of personal data has just been promulgated, thus opening the way for the State to sign and ratify Convention 108 as invited by the Committee of Ministers to do so in March 2017. This is a positive news to be commended.

The importance of the work of the Committee is to be underlined in respect of the adoption of highly topical standard setting documents, notably with the *Guidelines on Children's Data Protection in an Education Setting*, the *Guidelines on Facial Recognition*, the text of the *Draft Recommendation on the protection of individuals with regard to the processing of personal data in the context of profiling (revising Recommendation (2010)13)* as well as the issuance of the statement on *Covid-19 vaccination, attestations and data protection*. The Committee's contribution to the *Declaration by the Committee of Ministers on the need to protect children's privacy in the digital environment* which proved to be highly relevant should be stressed. Those documents are regularly quoted in many publication and serve as reference for the media, academics and other committees of the Council of Europe;

Awardees (Gabriel Kasper and Ignacio Cofone) of the 2021 edition of the Stefano Rodotà Award are to be warmly thanked and congratulated for setting up high benchmarks for the prize to be awarded in the coming years.

Workshops organised with the support of the Secretariat (through Glacy+ projects) for the African Network Data Protection on "the use of personal data in political campaigning and elections" and on "International transfers of personal data and international co-operation", have been a clear example of our active cooperation with various regions of the world.

As to activities in Europe, the Secretariat has closely followed the developments related to privacy and data protection from the European Union and notably the publication of a Digital Europe Program and the follow up of the so called Schrems 2 decision, as well as to the latest decision by the French Conseil d'Etat concerning the "data retention" judgment of the CJEU which entails direct and indirect bearings on the work of a number of committees of the Council of Europe, namely on the second additional Protocol to the Budapest Convention carried out by the Cybercrime Committee but also on the work of the T-PD in relation to the interpretation of art 11 of Convention 108+ - to be discussed during this very meeting. The importance of cooperation, including with other international organisations on this topics should be emphasized hence the participation of the representatives of the OECD in the discussion on the interpretation of Art.11 at the last Bureau meeting - a much appreciated initiative - which could also be followed up with respect to the ongoing OECD work on the trusted access to data by public authorities;

Turning to the Council of Europe, the Committee should be informed that the Organisation is busy drafting its new Digital Strategy with a view to replacing its policy document on internet governance in which the protection of privacy and personal data will have a prominent role and for which the support of the Council of Europe Member States, as well as the members of this Committee is strongly needed. The Secretary General has also recently published her report on the State of Democracy, Human Rights and Rule of Law that shed a light on many outstanding issues and which is used as a basis to create a link between the above described strategy, the priorities for the Organisation for the next 4 years to come and its underlying budget planning.

As to the work of your Committee, delegations are invited to actively participate in the discussion on timely and sensitive documents (namely the questionnaire and process and rationale) related to the new follow up and evaluation powers and functions of the Committee to be established under the modernised Convention 108 as well as to the Work programme for 2022-2025.

Concerning the work of other committees, it is of high importance for many representatives of this Committee too to be informed that 2 monitoring bodies for the Tromsø Convention have been set up and a first meeting of the Parties is scheduled for 29 September 2021.

The Committee on Cybercrime (T-CY) approved the text of the second additional Protocol to the Budapest Convention on 28 May 2021 during which it also considered the opinion of the T-PD which had been delivered through expedited written procedure. The availability and constructive approach of the Committee in this matter which is of high importance for the whole Organisation and for maintaining the rule of law in cyberspace based on strong human rights safeguards should be praised. The Protocol is due to be adopted after the completion of internal coordination procedures, including with the Parliamentary Assembly, by the Committee of Ministers in November this year and to be opened for signature in Spring 2022;

Concerning the work on AI, the Digital Development Unit will soon launch a study on blockchains and their impact on Human Rights, Democracy and Rule of Law. In line with the recent decision of the Committee of Ministers in Hamburg on 21 May 2021, the Council of Europe focuses on the possibility of elaborating a legal framework, including a transversal instrument of a legally binding nature. In this respect an online multi-stakeholder consultation organised by the CAHAI in which ca. 260 stakeholders from civil society, academics, industry and even some member States participated, revealed a broad consensus on the need for binding regulations on technologies that present high risks of human rights violation, regardless of the level of probabilities. Existing international instruments and ethical guidelines have been considered unfit to address these risks. CAHAI will hold its 5th plenary meeting on 5-7 July 2021 and is expected to finalise the main elements of the new legal framework on AI by December 2021. This Committee is to be thanked for its input in CAHAI's work and the complementarity of the CAHAI's approach with the EU's proposal on AI regulation is to be underlined.

The Cyprus Ministerial Conference held on 10-11 June 2021 and focused on "Artificial Intelligence-Intelligent Politics, Challenges and opportunities for media and democracy" also adopted several important resolutions, including one on freedom of expression and digital technologies. The Final declaration of the Conference recalls that "*further guidance must be developed with respect to the internet intermediaries*" and that such guidance should enable the protection and empowerment of children, elderly persons/seniors and other vulnerable groups. It was considered as a key element that such guidance are also accompanied with knowledge, skills and awareness necessary for their safe access to the digital environment and that they further contribute to the meaningful exercise of human rights and fundamental freedoms online.

With respect to item 16 of the agenda, delegations are to be informed that the first mandate of our friend and Council of Europe Data Protection Commissioner Jean-Philippe Walter expired in June 2021. Though, we hoped that the new Council of Europe regulation on the Protection of Personal Data would be adopted by then, and as it will most probably not be adopted before next year, the Committee will be proposed to contemplate to keep our friend Jean-Philippe Walter as Data Protection Commissioner ad interim until the June 2022 plenary meeting, as the new Regulation should be adopted by then. This is also feasible taking into consideration that Jean-Philippe Walter could have run for a second mandate, and that there had been a precedent in 2015. This proposal would allow for considering the election of the Data commissioner next year applying the new modalities foreseen in the future regulation.