



Strasbourg, 22 March 2019

T-PD-BUR(2019)47RAP

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

(Convention 108)

47th meeting of the Bureau

Paris, 20-22 March 2019

ABRIDGED REPORT

Directorate General of Human Rights and Rule of Law

1. The Bureau of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Data (“Convention 108”) held its 47th meeting in Paris from 20 to 22 March 2019, with Ms Alessandra Pierucci (Italy) in the chair. The agenda, as adopted by the Bureau and the list of participants are set out in Appendices I and II.

2. The Bureau of the Committee of Convention 108:

2.1 took note of the information provided by the Secretariat, regarding namely:

- the candidates to the post of Secretary General and applicable schedule;
- the current budgetary situation of the organisation and the proposal of a contingency plan made by the Secretary General;
- the adoption by the Committee of Ministers on 13 February of a Declaration on the manipulative capabilities of algorithmic processes and outcomes of the High-level conference “Governing the Game Changer – Impacts of artificial intelligence development on human rights, democracy and the rule of law” co-organised by the Finnish Presidency of the Committee of Ministers which was held on 26-27 February 2019 in Helsinki;

2.2. took note of the information provided by the Secretariat on the state of accession to Convention 108 and in particular of the accession of Argentina as 54th Party (taking effect as of 1 June 2019) and on signatures of Convention 108+ (amending Protocol CETS n°223) by Croatia on 22 March 2019, by Italy on 5 March 2019 and by Cyprus and Hungary on 9 January bringing the total of signatures to 27. The EU Parliament on 13 March 2019 consented to the draft Council decision authorising EU member states to ratify the amending Protocol;

2.3 took note of the presentation given by Ms Cécile de Terwangne on the evaluation and follow-up mechanism under Convention 108+ on the basis of the revised working documents and held an exchange of views with the expert, allowing for written comments on the drafts to be sent until 26 April, with a view to the finalisation of the drafts for the 38th plenary meeting of the Committee;

2.4 took note of the presentations by Mr Frédéric Wickert and Ms Sandra Azria on the technical and legal considerations of the use of facial recognition technologies, and held an exchange of views on the privacy and data protection issues related to this form of data processing and instructed the Secretariat to include it in the draft of the next biennium work programme 2020-2021 which will be submitted to the 38th plenary meeting of the Committee for adoption;

2.5 agreed to also include in the draft work programme the re-examination of the Recommendation CM/Rec(2010)13 of the Committee of Ministers to member states on the protection of individuals with regard to automatic processing of personal data in the context of profiling in light of the work and documents produced by the Committee in the last 10 years;

2.6 took note of the presentation by Mr Daniel Cooper (by videoconference) and held an exchange of views on data exchange models in the field of fight against sport manipulation and decided to continue to cooperate with the Secretariat of the Macolin Convention and the Group of Copenhagen based on an expert report to be presented at the 38th plenary meeting of the Committee;

2.7 took note of the presentation by Ms Jen Persson on data protection in the educational sector, and held an exchange of views, with the participation of Ms Livia Stoica of the Division on children’s right (by videoconference) on the data protection challenges in the education systems and instructed the Secretariat to include this topic in the Committee’s draft Work programme 2020-21;

2.8 took note of the information provided by the Secretariat on the developments with regard to the outline of negotiations conducted around the Second Additional Protocol to the Budapest Convention, in particular on the informal exchanges on the “direct access models”, held an exchange of views with the expert, Mr Gert Vermeulen based on the report “Conditions for obtaining subscriber information in relation to dynamic versus static IP addresses: overview of relevant court decisions and developments” and agreed that more transparency from the T-CY and drafting group dealing with privacy related issues would facilitate the meaningful contribution of the Committee to this crucial work;

2.9 took note of the information provided by the Secretariat on ICANN related issues, notably on the publication of the Report by the Expedited Policy Development Process (EPDP) Team on the Temporary Specification for gTLD Registration Data;

2.10 took note of the information provided by the Secretariat on the successful delivery of the Work programme 2018-19, especially on 4 accessions and on the joining of 7 new observers during that biennium and held an exchange of views on possible topics to be included in the draft Work Programme of the Committee for 2020-2021 and on corresponding working methods and decided to include in the draft Work programme the review of the current landscape and examination of the Recommendation CM/Rec(2010)13 of the Committee of Ministers to member states on the protection of individuals with regard to automatic processing of personal data, the topic of facial recognition and the one of data protection in the educational sector and instructed the Secretariat to circulate a draft Work programme to the participants for possible comments before its submission to the 38th plenary meeting of the Committee;

2.11 took note of the information provided by observers, in particular by the International Committee of the Red Cross on the publication end of 2018 of study prepared jointly with Privacy International on “the humanitarian metadata problem: ‘Doing no harm’ in the digital era” –, on the session on “data protection in at risk organisations” held at the Computers, Privacy & Data Protection (CPDP 2019) Conference, on the delivery of the second module of the “ICT foundations for lawyers and policy makers” training session delivered by the Lausanne University, on the launch of a new working series of data protection in Humanitarian action tackling block chain, digital identity, AI and machine, Connectivity as aid and use of social media. The Bureau also took note of the nomination of Mr Chawki Gaddes (Chair of the Tunisian DPA) as Chair of the Association of French Speaking Data Protection Authorities from 1 February 2019 and change of Secretary General further to the nomination of Ms Marie-Laure Denis as Chair of the CNIL. The AFAPDP annual conference will be held in September in Dakar, Senegal;

2.12 took note of the information provided by the Secretariat on the draft Recommendation on health-related data which is submitted for adoption by the Committee of Ministers on 27 March;

2.13 took note of the information on co-operation with other Council of Europe bodies, in particular with the Division on the Children’s rights (Conference to be held on 13-14 November in Paris, opportunity of contributing to the preparation of a draft Declaration on the protection of children in the digital environment to be submitted to the Committee of Ministers in view of the 40th anniversary of the UN Convention on the rights of the child);

2.14 took note of the major developments at national and international level in the data protection field in particular the following events: “Protection of digital privacy: challenges and perspectives” (Fes, Morocco, 28 January 2019), the CPDP Conference “Data Protection and democracy” (Brussels, Belgium, 30 January-1 February 2019), the conference “Governing the Game Changer – Impacts of artificial intelligence development on human rights, democracy and the rule of law” (Helsinki, Finland,

26-27 February 2019), the Mobile World Congress 2019 (MWC Barcelona), the e-commerce week and third Session of the Intergovernmental Group of Experts on e-commerce and the Digital Economy (Geneva, 1-5 April 2019), the Spring Conference of European Data Protection Authorities (Tbilisi, 9-10 May), the IAPP Global Privacy Summit 2019 (Washington, May 1-3, 2019), the 2019 Data Protection Workshop within International Organisations (Paris, 17-18 June 2019), EURODIG (The Hague, 19-20 June 2019), the International Conference on Privacy in Africa (24-27 June 2019), the ICDPPC (Tirana, 21-25 October 2019) and the IGF (Berlin, 28-29 November 2019);

2.15 took note of the presentations by the laureates of the Stefano Rodotà prize, Ingrida Milkaite and Eva Lievens, and Jef Ausloos, special mention of the Jury, held an exchange of views with them on their research;

2.16 approved the draft agenda of the 38th Plenary meeting of the Committee;

2.17 took note of the compilation of the replies to the questionnaire on the governance of data protection authorities leads;

2.18 took note of the information provided by the Secretariat on the cooperation projects and welcomed the impetus given to this important sector of work;

2.19 confirmed the dates of the Plenary meetings to be held in Strasbourg on 13 and 14 June 2019 (with preceding event of the UN Special Rapporteur on the right to privacy regarding the consultation on health data, 11 June and 12 June morning and an international conference on Convention 108+ on 12 June afternoon) and from 19 to 21 November 2019 and of the next Bureau meetings, to be held from 25 to 27 September 2019 in Paris and from 11 to 13 December 2019 in Strasbourg.

APPENDIX I.

AGENDA

	1. Opening of the meeting
T-PD(2018)RAP37Abr	Abridged report of the 37 th Plenary meeting (Strasbourg, 20-22 November 2018)
T-PD-BUR(2018)46RAP	Abridged report of the 46 th Bureau meeting (Strasbourg, 17-19 December 2018)
T-PD(2017)WP2018-2019	Work programme of the Committee 2018-2019
T-PD(2017)Rules	Rules of procedure
	2. Adoption of the agenda
	3. Statement by the secretariat
	<u>Required action:</u> The Bureau will take note of the information provided by the secretariat.
	4. Modernisation of Convention 108
	<u>Required action:</u> The Bureau 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
	<u>Required action:</u> The Bureau will take note of the information provided by the secretariat. <ul style="list-style-type: none">• Convention 108+: chart of signatures and ratification• Convention 108: chart of signatures and ratifications
	6. Evaluation and follow up mechanism under Convention 108+
	Expert: Ms Cécile de Terwangne, CRIDS, Namur. <u>Required action:</u> The Bureau will take note of the information provided by the expert and will hold an exchange of views on the topic.

T-PD(2018)20rev	Draft questionnaire on the evaluation and follow-up mechanism
T-PD(2018)21	Information elements on the evaluation and follow-up mechanism
	7. ICANN
	<u>Required action:</u> The Bureau will take note of the information provided by the Secretariat.
T-PD(2018)18	<ul style="list-style-type: none"> • Privacy and data protection principles guide for ICANN related data processing • ICANN CeO letter to Helen Dixon and Willem Debeuckelaere • ICANN letter European Data Protection Board (EDBP) (05/07/2018) • Letter Article 29 Working Party on WHOIS (11 April 2018)
	8. Law enforcement transborder access to data
	<p>Expert: Mr Gert Vermeulen, Full Professor, Department Chair, Department Criminology, Criminal Law and Social Law, Institute for International Research on Criminal Policy (IRCP)</p> <p><u>Required action:</u> The Bureau will take note of the information provided by the expert and will hold an exchange of views.</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>Preparation of a 2nd Additional Protocol to the Budapest Convention on Cybercrime: Consultation with data protection experts - Issues for discussion</p>
	9. Work programme and Working methods
	<p>Experts: Frédéric Wickert, Founder and CEO of A.I. Sense, Sandra Azria, lawyer, Jen Persson, Director, “defenddigitalme”</p> <p><u>Required action:</u> The Bureau will take note of the presentations by the experts on the following thematic:</p> <ul style="list-style-type: none"> - facial recognition - data protection and education systems. <p>The Bureau will hold an exchange of views on the forthcoming Work Programme of the Committee for 2020-2021 and corresponding working methods.</p>
	10. Cooperation with other Council of Europe bodies and entities

	<p><u>Required action:</u> The Bureau will take note of the information provided by the secretariat.</p>
	<ul style="list-style-type: none"> • Bioethics Committee (DH-BIO) • Macolin Convention Daniel Cooper, Covington & Burling LLP • Steering Committee on Media and Information Society (CDMSI) <ul style="list-style-type: none"> ○ MSI-AUT
	<p>11. Overview of activities and major developments in the field of data protection</p>
	<p><u>Required action:</u> The Bureau will take note of the information provided by the Secretariat.</p>
	<p>Data protection day events compilation “Protection of digital privacy: challenges and perspectives” (Fes, Morocco, 28 January 2019) International Conference Computers, Privacy & Data Protection “Data Protection and democracy” (CPDP 2019) (Brussels, Belgium, 30 January-1 February 2019) “Governing the Game Changer – Impacts of artificial intelligence development on human rights, democracy and the rule of law” (Helsinki, Finland, 26-27 February 2019)</p>
	<p>12. Observers</p>
	<p><u>Required action:</u> The Bureau will take note of the information provided by the observers.</p>
T-PD(2018)04Rev3	<p>Observers - State of play and admission criteria</p>
	<p>13. Health-Related data</p>
	<p><u>Required action:</u> The Bureau will take note of the information provided by the Secretariat.</p>
T- PD(2018)06rev2	<p>Draft Recommendation on the protection of health-related data</p>
T-PD(2018)11Rev3	<p>Draft explanatory memorandum of the Recommendation on the protection of health-related data</p>
	<p>14. Stefano Rodota Award</p>
	<p>Guests: Ingrida Milkaite and Eva Lievens, Jef Ausloos</p> <p><u>Required action:</u> The Bureau will meet the laureates of the prize, and of the Jury’s special mention, and will hold an exchange of views with them.</p>
	<p>15. Draft agenda of the 38th plenary meeting</p> <p><u>Required action:</u> The Bureau will discuss and approve the draft agenda of the 38th plenary meeting (Strasbourg, 12-14 June 2019)</p>

	16. Compilation of replies on DPAs
T-PD(2018)24	Compilation of answers to the questionnaire on supervisory authorities
	17. Cooperation programmes
T-PD(2019)02	Information document on coopération projects (English version only)
	18. Next meetings
	<u>Required action:</u> The Bureau will take note of the dates of the next meetings.
	<u>Dates of Bureau meetings in 2019:</u> <ul style="list-style-type: none"> • 48th Bureau meeting (Paris, 25-27 September 2019) • 49th Bureau meeting (Strasbourg, 11-13 December 2019, (TBC))
T-PD38(2019)OJ	<u>Dates of Plenary meetings in 2019:</u> <ul style="list-style-type: none"> • 38th Plenary meeting (Strasbourg, 12-14 June 2019) • 39th Plenary meeting (Strasbourg, 19-21 November 2019)
	19. Any Other Business

APPENDIX II.

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

FRANCE (apologised / excusée)

GEORGIA / GÉORGIE

Tamar Kaldani, (first Vice-Chair / première Vice-présidente), Personal Data Protection Inspector of Georgia

ITALY / ITALIE

Pierucci Alessandra, (Chair / Présidente), Service for EU and international matters, Data Protection Authority

LUXEMBOURG

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

PORTUGAL

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

SERBIA / SERBIE

Nevena Ružić, Assistant to the Secretary General, Commissioner for Information of Public Importance and Personal Data Protection

SENEGAL / SÉNÉGAL

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

SWITZERLAND / SUISSE

Jean-Philippe Walter, Council of Europe Data Protection Commissioner / Commissaire à la protection des données du Conseil de l'Europe

MEMBERS OF THE COMMITTEE / MEMBRES DU COMITE

GERMANY / ALLEMAGNE

Stefan Niederer, Federal Commissioner for Data Protection and Freedom of Information, Unit 14, European and International Affairs

LITHUANIA / LITUANIE

Danguolė Morkūnienė, Deputy Director, State Data Protection Inspectorate

LUXEMBOURG

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

MEXICO / MEXIQUE

Marisol Camacho, Division des Affaires multilatérales, Ambassade du Mexique en France

José de Jesús Cisneros Chávez, Chargé des Affaires politiques, Ambassade du Mexique en France

Eva Vilchis Flores, analyste de l'Ambassade du Mexique

MONTENEGRO / MONTÉNÉGR

Radenko Lacmanović, member of the Council, Agency for Personal Data Protection and Free Access to Information

Mirjana Volkov, Agency for Personal Data Protection and Free Access to Information

POLAND / POLOGNE

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

REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA

Eduard Raducan, Director, National Center for Personal Data Protection

SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE

Petra Lasova, Department of Legal Services, Office for Personal Data Protection

SPAIN / ESPAGNE

Pablo Manuel Mateos Gascueña, Head of service, International Department, Data Protection Agency

UNITED KINGDOM / ROYAUME-UNI

Blandine Cassou-Mounat, Senior Policy Officer, International Engagement, Information Commissioner's Office

Eve Fensome, International Data Protection and Free Flows Policy Adviser, Department for Digital, Culture, Media & Sport, (DCMS)

OBSERVERS / OBSERVATEURS

EUROPEAN ASSOCIATION FOR THE DEFENSE OF HUMAN RIGHTS / ASSOCIATION EUROPÉENNE POUR LA DÉFENSE DES DROITS DE L'HOMME (AEDH)

Maryse Artiguelong, Déléguée (AEDH)

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

Claire-Agnès Marnier, Legal Officer, European Data Protection Supervisor (EDPS)

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

Marine Revel, Chargée de mission (AFAPDP)

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

Massimo Marelli, Lawyer/Head of Data Protection Project, Communication & Information Management Department

INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS / CONFÉRENCE INTERNATIONALE DES COMMISSAIRES A LA PROTECTION DES DONNÉES ET DE LA VIE PRIVÉE

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

MOROCCO / MAROC

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

Rachid Haddouchane, Directeur des Systèmes d'information de la CNDP

EXPERTS

Sandra Azria, Avocat à la Cour, Azria Avocats

Daniel Cooper, Covington & Burling LLP

Cécile de Terwangne, Professor Law Faculty, Namur University (FUNDP), CRIDS Research Director

Jen Persson, Director, defenddigitalme

Gert Vermeulen, Full Professor of (European and international) criminal law and director of the Institute for International Research on Criminal Policy (IRCP)

Frédéric Wickert, Founder & CEO of A.I. SENSE

INVITED GUESTS / INVITÉS

Jef Ausloos, postdoctoral researcher at the Institute for Information Law (IViR, University of Amsterdam and an affiliated researcher at the Centre for IT & IP law at KU Leuven

Eva Lievens, Assistant Professor at the Faculty of Law and Criminology at Ghent University

Ingrida Milkaite, PhD researcher in the research group Law & Technology at Ghent University

COUNCIL OF EUROPE SECRETARIAT / SECRÉTARIAT DU CONSEIL DE L'EUROPE

**Directorate General Human Rights and Rule of Law /
Direction générale Droits de l'Homme et État de droit (DG I.)**

Information Society Department / Service de la société de l'information

Data Protection Unit / Unité de la protection des données

Sophie Kwasny, Secretary of the Committee / Secrétaire du Comité

Péter Kimpiàn, Programme Advisor / Conseiller de programme

INTERPRETERS / INTERPRÈTES

Shan Benson (Chef d'équipe)

Ina Kang

Vincent Delouzillière