

Working Group

Convention 108+ Evaluation and Follow-up Mechanism

Terms of Reference

1. Purpose

The Working Group on the Evaluation and Follow-up Mechanism (WG-EFM) undertakes to revise the draft Evaluation and Follow-up Mechanism documents.

2. Objectives

- a. The Working group will ensure that the Evaluation and Follow-up Mechanism documents conform with the modernised convention, in particular the terms set out in Article 4, paragraph 3, and Article 23, litterae e, f and h and Article 24, paragraph 4. This includes:
 - i. Ensuring that an evaluation and follow-up mechanism that is based on “objective criteria” (Art. 24, §4) is established
 - ii. Upholding that the purpose of the Evaluation and Follow-up mechanism is to “evaluate the effectiveness of the measures [a party] has taken in its law to give effect to the provisions of this Convention” (Art. 4, §3) with the aim to “evaluate whether the level of personal data protection the [party] provides is in compliance with the provisions of this Convention and, where necessary, recommend measures to be taken to reach such compliance” (Art. 23)
- b. The Working group will pay due regard to the Explanatory Report paragraphs 37, 38 and 39.

3. Issues for consideration¹

The Working group may consider issues as follows:

- i. How to ensure that the Evaluation questionnaire enables an evaluation of all Articles in the modernised convention, that goes as far, but no further than assessing compliance with the provisions of the Convention.
- ii. The resourcing of the process, both from the perspective of the Evaluators and the Parties.
- iii. How to account for different legal regimes, i.e. monist versus dualist state systems.

4. Membership

- a. Bureau members
- b. The following Parties have expressed interest in participating in the work of the WG: Germany, Malta, Monaco, Morocco, Poland, Spain, Switzerland, the United Kingdom.
- c. The following observers have expressed interest in participating in the work of the WG: the European Commission, the EDPS, the Australian Privacy Foundation.

5. Ways of working

- a. Face to face meetings back to back with Bureau meetings
- b. Remote participation meetings (conference calls / visio conferences)
- c. Written submissions
- d. The WG-EFM will report back to the Plenary.

¹ Non-exhaustive list