



Strasbourg, 16 June 2016

CAHDATA(2016)RAPAbr

**AD HOC COMMITTEE ON DATA PROTECTION
(CAHDATA)**

Strasbourg
15-16 June 2016

ABRIDGED REPORT

Directorate General of Human Rights and Rule of Law

The Ad hoc Committee on data protection (CAHDATA), set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods, held its meeting in Strasbourg on 15-16 June. The list of participants* is set out in Appendix 1.

The CAHDATA:

1. Elected Seamus Carroll (Ireland) as Chair;
2. Examined the outstanding issues as highlighted in the consolidated draft of the modernisation proposals of Convention 108, contained in the working document CAHDATA (2016)01 and agreed on the following:

Article 3.1bis

This Convention shall not apply to data processing carried out by an individual in the course of ~~purely~~ personal or household activities.

Article 5.2 (lifting of the reserve - deletion of the footnote)

Each Party shall provide that data processing can be carried out on the basis of the free, specific, informed and unambiguous consent of the data subject or of some other legitimate basis laid down by law.

Article 5.4.b

collected for explicit, specified and legitimate purposes and not processed in a way incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical ~~historical, statistical and scientific~~ purposes is, subject to appropriate safeguards, compatible with those purposes;

Article 5.4.c (lifting of the reserve - deletion of the footnote)

adequate, relevant and not excessive in relation to the purposes for which they are processed;

Article 5.4.e (lifting of the reserve - deletion of the footnote)

preserved in a form which permits identification of data subjects for no longer than is necessary for the purposes for which those data are processed.

Article 6

The processing of:

- genetic data;
- personal data relating to offences, criminal proceedings and convictions, and related security measures;
- biometric data uniquely identifying a person;
- personal data for the information they reveal relating to racial or ethnic origin, political opinions, trade-union membership, religious or other beliefs, health or sexual life;

shall only be allowed where ~~specific and additional~~ appropriate safeguards are enshrined in law, complementing those of this Convention.

* 57 men and 48 women

Article 8.b (lifting of the reserve - deletion of the footnote)

Article 8.d

to object at any time, on grounds relating to his or her situation, to the processing of personal data concerning him or her unless the controller demonstrates legitimate grounds for the processing which override his or her interests or rights and fundamental freedoms;

New Article 8.2

Paragraph 1.a shall not apply if the decision is authorised by a law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests.

Article 9

No exception to the provisions set out in this Chapter shall be allowed, except to the provisions of Articles 5.4, 7.2, 7bis paragraph 1 and Article 8 when such exception is provided for by law, respects the essence of the fundamental rights and freedoms and constitutes a necessary and proportionate measure in a democratic society for:

a. the protection of national security, defence, public safety, important economic and financial interests of the State, the impartiality and independence of the judiciary or the prevention, investigation and prosecution of criminal offences and the execution of criminal penalties, and other essential objectives of general public interest;

b. the protection of the data subject or the rights and fundamental freedoms of others, notably freedom of expression.

2. Restrictions on the exercise of the provisions specified in Articles 7bis and 8 may be provided for by law with respect to data processing for historical, statistical and scientific archiving purposes in the public interest, scientific or historical research purposes or statistical purposes when there is no recognisable risk of infringement of the rights and fundamental freedoms of data subjects.

3. In addition to the exceptions allowed for in paragraph 1 of this Article, with reference to processing activities for national security and defence purposes, each Party may provide, by law and only to the extent that it constitutes a necessary and proportionate measure in a democratic society to fulfill such aim, exceptions to Article 12 (5) and (6) and Article 12bis (2) (a), (b), (c) and (d).

This is without prejudice to the requirement that processing activities for national security and defence purposes are subject to independent and effective review and supervision.

New Article 12.4.d (and deletion of 12.7)

it constitutes a necessary and proportionate measure in a democratic society for freedom of expression.

Article 15.2

In no case may a designated supervisory authority be allowed to make a request for assistance on behalf of a data subject of its own accord and without the explicit consent/express approval of the data subject concerned.

Article 16 – Refusal of requests for assistance

A designated supervisory authority to which a request for assistance is addressed under Article 13 of this Convention may not refuse to comply with it unless:

a. the request is not compatible with ~~the its powers in the field of data protection of the authorities responsible for replying;~~

Article 21.8 (paragraph deleted).

3. Agreed to finalise the draft explanatory report by written procedure;
4. Took note of the special position of the Russian Federation with regard to articles 3.1, 9.1 and 9.2 and the remaining objections with regard to article 12.1 of the draft modernised Convention;
5. Took note of the declaration¹ made by the Russian Federation regarding article 20.3 of the draft modernised Convention;
6. Instructed the Secretariat to revise the draft amending Protocol according to the above mentioned changes and to transmit it together with the draft explanatory report to the Committee of Ministers for examination.

¹ See appendix 3

APPENDIX 1

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

MEMBERS / MEMBRES*

ALBANIA / ALBANIE

Edrin Fidhe, Inspector, Information and Data Protection Commissioner (IDP), Rr. Kavajës, Nd. 80, H. 1, Kati 5, 1023, Tirana

ANDORRA / ANDORRE (apologised /excusé)

ARMENIA / ARMÉNIE (apologised /excusé)

AUSTRIA / AUTRICHE

Natalie Fercher, LL.M., Federal Chancellery – Constitutional Service, Directorate Data Protection, Ballhausplatz 2, 1010 Wien

AZERBAIJAN / AZERBAÏDJAN

Samir Akhundov, Senior specialist, State Security Service, Baku

BELGIUM / BELGIQUE

Ketsia Malengreaux, Attachée, Cellule Vie Privée – Direction législation et droits fondamentaux, SPF Justice, Bruxelles

Valérie Verbruggen, Conseiller Juridique, Commission de la protection de la vie privée, Rue de la presse 35, 1000 Brussels

BOSNIA AND HERZEGOVINA / BOSNIE HERZEGOVINE

Vesna Pehar, Assistant Director, Department for International Cooperation and Public Relations, Personal data protection Agency, Vilsonovo setaliste 10, 71000 Sarajevo

BULGARIA / BULGARIE

Kameliya NIKOLOVA, Deputy to the permanent Representative of Bulgaria to the Council of Europe, 22 rue Fischart, Strasbourg

CROATIA / CROATIE

Sanja Silaj Zeman, Head of Department for International Cooperation and European and Legal Affairs, Martićeva 14, 10 000 Zagreb

CYPRUS / CHYPRE

Constantinos Georgiades, Officer, Office of the Commissioner for Personal Data Protection, 1, Iasonos Street, 1082 Nicosia

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Petr Habarta, Department of Security Policy and Crime Prevention, Ministry of Interior, Nad Stolou 936/3, P.O. BOX 21/OBP, 170 34 Prague 7

DENMARK / DANEMARK

Nanna Østerrøgdild Bødker, Ministry of Justice, Data Protection Division, Slotsholmsgade 10, DK-1216 Copenhagen

* See terms of reference of the CAHDATA / voir mandat du CAHDATA

ESTONIA / ESTONIE

Julia Antonova, Counsellor, Permanent Representation of Estonia to the EU, Rue Guimard 11/13, Brussels, Belgium

FINLAND / FINLANDE

Leena Vettenranta, Senior Specialist (Data Protection), Ministry of Justice, P.O. Box 25, FIN-00023 Government

FRANCE

Agnès Maitrepierre, Chargée de mission auprès du Directeur des affaires juridiques du Ministère des affaires étrangères et du développement international, 57 Boulevard des Invalides, 75700 Paris

GEORGIA / GÉORGIE

Tamar Kaldani, Personal Data Protection Inspector of Georgia, 7, N. Vachnadze Str., Tbilisi, 0105,

GERMANY / ALLEMAGNE

Stefan Niederer, Senior Data Protection Officer, European and International Affairs, the Federal Commissioner for Data Protection and Freedom of Information, Husarenstr. 30, 53117 Bonn

Uwe Wusterhausen, Consultant on data protection law, the Federal Ministry of Interior, Alt-Moabit 140, 10557 Berlin

GREECE / GRÈCE

Vagia Polizoidou, Lawyer, Ministry of Justice, Athens

HUNGARY / HONGRIE

Attila Péterfalvi, President, National Authority for the Data Protection and Freedom of Information, H-1125 Budapest, Szilágyi Erzsébet fasor 22/C

ICELAND / ISLANDE

Helga Sigridur Thorhallsdottir, Lawyer, Data Protection Authority, Raudararstigur Nr 10, 105 Reykjavik

IRELAND / IRLANDE

Seamus Carroll, Principal Officer, Civil Law Reform Division, Department of Justice and Equality, Bishop's Square, Redmond's Hill, Dublin 2

Noreen Walsh, Civil Law Reform Division, Department of Justice and Equality, Bishop's Square Redmond's Hill, Dublin 2

ITALY / ITALIE

Giuseppe Busia, Garante per la protezione dei dati personali, Secretary General, Piazza Monte Citorio 121, 00186 Roma

Alessandra Pierucci, Garante per la Protezione dei Dati Personali, Piazza di Monte Citorio 121 00186 Rome

LATVIA / LETTONIE

Jekaterina Macuka, Head of Sectorial policy department, Ministry of Justice of the Republic of Latvia, Brivibas bulvaris 36, Riga, LV-1536

LIECHTENSTEIN (apologised /excusé)**LITHUANIA / LITUANIE**

Sigita Aurelija Vaičiūnaitė, Chief specialist, Legal Institution's Department, Ministry of Justice, Vilnius

LUXEMBOURG

Gérard Lommel, Commissaire du gouvernement à la protection des données, Ministère d'Etat, 43, Boulevard F.-D. Roosevelt, L-2450 Luxembourg

MALTA / MALTE

Ingrid Camilleri, Head – Legal, Office of the Information and Data Protection Commissioner, Airways House, Second Floor, High Street, Sliema SLM 1549

REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA

Nicolae Lungu, Head of the Legal Affairs Division and Public Relation for the National Center for the Data Protection

MONACO

Corinne Laforest de Minotty, Chef de l'Inspection Générale de l'Administration, Ministère d'Etat - Place de la Visitation, 98000 Monaco

MONTENEGRO

Aleksa Ivanovic, member of the Council of the Agency for Personal data Protection and Free Access to Information, kralja Nikole, 2, Podgorica, 81000 Montenegro

NETHERLANDS / PAYS-BAS

Heleen L. Janssen, Senior legal adviser, Ministry of the Interior and Kingdom Relations, Department of Constitutional Affairs and Legislation, PO box 20011, 2500 EA Den Haag

Jeroen de Jong, Ministry of Security and Justice, Department of Legislation and Legal Affairs, Constitutional and Administrative Law Sector, Turfmarkt 14, 2511 DP Den Haag, POB 20301, 2500 EH Den Haag

NORWAY / NORVÈGE

Øyvind Molven, Advisor, Ministry of Justice, Oslo

Yngve Olsen Hvoslef, Deputy to the Permanent Representative, Délégation Permanente de Norvège auprès du Conseil de l'Europe, Strasbourg, France

POLAND / POLOGNE

Marta Kaczmarska, Deputy to the Permanent Representative, Permanent Representation of Poland to the Council of Europe, 2 rue Geiler, 67000 Strasbourg

PORTUGAL

João Pedro Cabral, Legal Adviser, Directorate General of Justice Policy, Ministry of Justice, Avenida D. João II, n.º1.08.01 E, Torre H, Pisos 2/3, 1990-097 Lisboa

ROMANIA / ROUMANIE

Alexandru George Grigore, Department of international Affairs, The National Authority for the Supervision of Personal Data Processing, Bucarest

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Alexander Bodrov, expert of the Federal Security Service of the Russian Federation

Vasily Dolmatov, Deputy Director General of the Department of International Cooperation, Ministry of Telecom and Mass Communications of the Russian Federation

Alfiia Gafurova, Deputy chief of the Department on protection of the rights of subjects of personal data, The Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications (Roscomnadzor)

Maksim Kiselev, Advisor of the Department of International Cooperation, Ministry of Telecom and Mass Communications of the Russian Federation

Evgenii Korovin, expert of the Federal Security Service of the Russian Federation

Konstantin Kosorukov, expert of the Ministry of Foreign Affairs of the Russian Federation

Anton Markovskiy, Deputy to the Permanent Representative, Permanent Representation of the Russian Federation to the Council of Europe, 75, allée de la Robertsau - 67000 Strasbourg

SAN MARINO / SAINT MARIN (no expert nominated / aucun expert désigné)

SERBIA / SERBIE (no expert nominated / aucun expert désigné)

SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE

Miroslava Benedikova, Permanent Representation of the Slovak Republic to the European Union, Brussels

Zuzana Zolakova, Office for Personal Data Protection, Legal Department and Foreign Relations, Bratislava

SLOVENIA / SLOVÉNIE

Peter Pavlin, Secretary, Ministry of Justice of the Republic of Slovenia, Directorate for Legislation in the Justice Area - Department for Punitive Law and Human Rights, Župančičeva ulica 3, SI-1000 Ljubljana

SPAIN / ESPAGNE

Agustín Puente Escobar, Director, Agencia Española De Protección De Datos, State Attorney - Head of the Legal department, C/Jorge Juan, 6, 28001 Madrid

SWEDEN / SUÈDE

Nils Sjöblom, Legal Adviser, Division for Constitutional Law, Ministry of Justice, Regeringskansliet, SE-103 33 Stockholm

SWITZERLAND / SUISSE

Monique Cossali Sauvain, La cheffe, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit public, Unité Projets et méthode législatifs, Bundesrain 20, 3003 Berne

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / « L’EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE »

Tatjana Trajkovska, General Secretary of the Data Protection Agency, Skopje

TURKEY / TURQUIE

Tahir Akça, General Directorate for Laws, Rapporteur Judge, Ministry of Justice, Adalet Bakanlığı Kızılay Ankara

Abdullah Ömeroğlu, Rapporteur Judge, General Directorate of International Law and External Affairs, Ministry of Justice, Adalet Bakanlığı Ek Binası, Milli Müdafaa Caddesi 9 Kat No:913 Bakanlıklar Ankara

UKRAINE

Olena Smirnova, Deputy Head of the Secretariat of the Parliament Commissioner for Human Rights, Kiev

UNITED KINGDOM / ROYAUME-UNI

Rory Munro, Head of EU and International Data Protection Team, 100 Parliament Street, London SW1A 2BQ

Alice Ryder, European Unit - International Directorate, Home Office, 2 Marsham Street, London

URUGUAY

Gonzalo Sosa Barreto, AGESIC, Andes 1365 piso 7º, Montevideo

PARTICIPANTS*

MAURITIUS / MAURICE

Drudeisha Madhub, Data Protection Commissioner, Data Protection Office, Emmanuel Anquetil Building, Corner Sir Virgil Naz and Sir William Newton streets, Port Louis, Mauritius

MOROCCO / MAROC

Saïd Ithrai, Commission nationale pour le contrôle des données à caractère personnel (CNDP), Bd An-Nakhil / Bd Mehdi Ben Barka - Hay Ryad, BP 6838 – Rabat Instituts, 10 000 RABAT, Maroc

SENEGAL

Saikou Fall, responsable des systèmes d'information et du contrôle, Commission de protection des données personnelles (CDP), 34, Mermos VDN, Dakar

Annick Béatrice Ndiaré Sarr, juriste, Commission de protection des données personnelles (CDP), 34, Mermos VDN, Dakar

Awa Ndiaye, Présidente, Commission de protection des données personnelles (CDP), 34, Mermos VDN, Dakar

TUNISIA / TUNISIE

Chawki Gaddes, Président de l'Instance Nationale de Protection des Données Personnelles, 1, rue Mohamed Moalla, 1002, Tunis

COUNCIL OF EUROPE BODIES / ORGANES DU CONSEIL DE L'EUROPE

CONSULTATIVE COMMITTEE OF CONVENTION 108 / COMITE CONSULTATIF DE LA CONVENTION 108 (T-PD)

Jean-Philippe Walter, Chair of the / Président du T-PD

EUROPEAN UNION / UNION EUROPEENNE

EUROPEAN COMMISSION / COMMISSION EUROPEENNE

Bruno Gencarelli

Directorate C: fundamental rights and Union citizenship, Unit C3 Data Protection
Deputy Head of Unit, 1049 Bruxelles, Belgium

Karolina Mojzesowicz, Head of Reform Sector, DG JUST C3, Rue Montoyer 59, Office 02/023, 1049 Brussels

Paulo Silva, Directorate C: fundamental rights and Union citizenship, Unit C3 Data Protection, Brussels

COUNCIL OF THE EUROPEAN UNION / CONSEIL DE L'UNION EUROPEENNE

Christina Strömholm, General Secretariat - DG D 2b, Fundamental Rights and Criminal Justice, Office JL 20 MN 41, Rue de la Loi, 175, BE- 1048 Brussels

EUROPEAN UNION DELEGATION TO THE COUNCIL OF EUROPE / DELEGATION DE L'UNION EUROPEENNE AUPRES DU CONSEIL DE L'EUROPE

Benjamin Bollendorff, Deputy to the Head of Delegation, 18 Boulevard de l'Orangerie, Strasbourg

* See terms of reference of the CAHDATA / voir mandat du CAHDATA

EUROPEAN PARLIAMENT / PARLEMENT EUROPEEN

Jose Manuel De Frutos Gomez, Administrator for a parliamentary body, European Parliament, Directorate-General for Internal Policies of the Union, Directorate for Citizens' Rights and Constitutional Affairs, Secretariat of the Committee on Civil Liberties, Justice and Home Affairs, BRU - SQM 08Y037, 60 rue Wiertz, B-1047 Brussels, Belgium

EUROPEAN DATA PROTECTION SUPERVISOR / LE CONTRÔLEUR EUROPEEN DE LA PROTECTION DES DONNEES

Alba Bosch Moliné, Legal officer, Policy & Consultation Unit, Postal address: Rue Wiertz 60, B-1047 Brussels, Office address: Rue Montoyer 30, B-1040 Brussels

OBSERVER STATES TO THE CoE / PAYS OBSERVATEURS AU CdE

HOLY SEE / SAINT-SIEGE

Alessandro Calcagno, Secrétaire de la Commission affaires juridiques de la Commission des Episcopats de l'Union Européenne (COMECE), Squaire de Meeûs, 19/1, B-1050 Brussels, Belgique

JAPAN / JAPON

Junichi Ishii, Senior Researcher, Personal Information Protection Commission, Kasumigaseki Common Gate West Tower 32nd Floor, 3-2-1, Kasumigaseki, Chiyoda-ku, Tokyo, 100-0013

Shun Kitagawa, Consul, Consulate-General of Japan in Strasbourg, "Tour Europe" 20, Place des Halles 67000 Strasbourg, France

MEXICO / MEXIQUE

Joaquín González Casanova, Directeur General des Affaires Internationales de l'institut National de Transparence, d'accès à l'information et protection des données du Mexique (INAI); Insurgentes Sur 3211, Col. Insurgentes Cuicuilco, Del. Coyoacán, Mexico D. F. C.P. 04530

Santiago Oñate Laborde, Observateur Permanent du Mexique auprès du Conseil de l'Europe, 5, Boulevard du Président Edwards, 67000 Strasbourg, France

OBSERVERS / OBSERVATEURS*

STATES / ETATS

BELARUS

Nikolai Savanovich, Deputy Head, Department of Constitutional and International law, National center of legislation and legal research, Truth avenue, 1-55, 220116 Minsk

BENIN

Etienne M. Fifatin, Président, Commission Nationale de l'Informatique et des Libertés du Bénin (CNIL/Bénin)

BURKINA FASO

Marguerite Ouédraogo Bonane, Présidente, Commission de l'Informatique et des Libertés (CIL) Vice-Présidente Association Francophone des Autorités de Protection des Données Personnelles (AFAPDP), 01 BP 1606 Ouagadougou

Rasmané Congo, Conseiller des affaires étrangères, Commission de l'Informatique et des Libertés (CIL), 01 BP 1606 Ouagadougou

Aouba Mamadi, Commission de l'Informatique et des Libertés (CIL), Ouagadougou

* See terms of reference of the CAHDATA / voir mandat du CAHDATA

Ahmed Hissène Ange Marie Noël Ouédraogo, Secrétaire général de la Commission de l'informatique et des libertés (CIL), 01 BP 1606 Ouagadougou 01

CAPE VERT / CAP VERT

Faustino Varela Monteiro, President, National Commission of Data Protection, Avenida da China, Rampa de Terra Branca, Apartado 1002, C.P. 7600, Praia

José Maria Vaz de Pina, National Commission of Data Protection, Avenida da China, Rampa de Terra Branca, Apartado 1002, C.P. 7600, Praia

GHANA

Teki Akuetteh Falconer, Executive Director, Ministry of Communications Blk., Ministerial Enclave, P.O. Box CT7195, Accra

INDONESIA / INDONESIE

Sinta Dewi Rosadi, Law Professor at Faculty of Law, University of Padjadjaran Bandung, Indonesia

ORGANISATIONS

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

Marise Artiguelong, Déléguée, AEDH, Rue de la Caserne 33 – 1000 Brussels, Belgium

AUSTRALIAN PRIVACY FOUNDATION / FONDATION AUSTRALIENNE POUR LE RESPECT DE LA VIE PRIVÉE (APF / AFP)

Graham Greenleaf AM, Professor of Law & Information Systems, UNSW Australia, Co-Director, Australasian Legal Information Institute (AustLII), Asia-Pacific Editor, Privacy Laws & Business International Report (PLBIR)

INTERNATIONAL CHAMBER OF COMMERCE (ICC) / CHAMBRE INTERNATIONALE DU COMMERCE (CIC)

Jacques Beglinger, Attorney-at-law, D.E.S.S., Member of the Executive Committee, Swiss Holdings, Federation of Industrial and Service Groups in Switzerland – Bern

INTERNATIONAL COMMISSION ON CIVIL STATUS (ICCS)/ COMMISSION INTERNATIONALE DE L'ÉTAT CIVIL (CIEC)

Jennifer Ewing, assistante de direction et traductrice au Secrétariat Général, CIEC, Secrétariat Général, 3, place Arnold, 67000 Strasbourg, France

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

Julie Tenenbaum, Regional Legal Adviser for Europe, 10bis, Passage d'Enfer, 75014 Paris, France

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

Laurent Lim, CNIL, Juriste chargé de mission, Service des affaires européennes et internationales

INTERPOL

Caroline Goemans Dorny, Counsel, I.C.P.O - INTERPOL, Secrétariat Général, 200 quai Charles de Gaulle, 69006 Lyon, France

UNITED NATIONS / NATIONS UNIS

Cécile Barayre, Economic Affairs Officer, ICT Analysis Section Division on Technology and Logistics, UNCTAD, Geneva, Switzerland

Joseph Cannataci, UN Special Rapporteur for the right to Privacy, Office of the High Commissioner for Human Rights, Palais Wilson, Geneva, Switzerland

SCIENTIFIC EXPERT / EXPERT SCIENTIFIQUE

Cécile de Terwangne, Professeur à la Faculté de Droit, Directrice de recherche au CRIDS (Centre de Recherches Informatique, Droit et Société), Facultés Universitaires Notre-Dame de la Paix (FUNDP)
Rempart de la Vierge n°5, 5B-5000 Namur, Belgique

SECRETARIAT

Directorate of Legal Advice and Public International Law /
Direction du conseil juridique et du droit international public

Jorg Polakiewicz, Director

Treaty Office Unit / Unité du Bureau des Traités

Gomez Heredero Ana Isabel

Directorate General Human Rights and Rule of Law /
Direction Générale Droits de l'homme et Etat de droit

Directorate of Information Society and Action against Crime / Direction de la société de l'information et de la lutte contre la criminalité

Jan Kleijssen, Director / Directeur

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

Patrick Penninckx, Head/Chef de service

Data Protection Unit / Unité de la protection des données

Sophie Kwasny, Secretary of CAHDATA / Secrétaire du CAHDATA

Maria Michaelidou, Programme Advisor / Conseillère de programme

Szilvia Simond, Assistant / Assistante

Agathe Mougel, trainee / stagiaire

INTERPRETERS / INTERPRETES

Rémy Jain
Derrick Worsdale
Nadine Kieffer

APPENDIX 2

DRAFT AGENDA

I. OPENING OF THE MEETING

Mr Patrick Penninckx, Head of Information Society Department

II. ADOPTION OF THE AGENDA

III. ELECTION OF THE CHAIR

- [CAHDATA\(2016\)ToR](#) Terms of Reference
- [CM/Res\(2011\)24](#) Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods

IV. DRAFT AMENDING PROTOCOL: EXAMINATION OF THE OUTSTANDING ISSUES

- [Draft amending Protocol](#) Working document containing the draft Protocol and highlighting reservations
- Information document Consolidated text of the modernised version of Convention 108 (with reservations)
- Draft Explanatory report Draft Explanatory report of the modernised Convention 108

V. ANY OTHER BUSINESS

APPENDIX 3

**Statement of the Delegation of the Russian Federation on Article 20.3
of the draft modernised Convention for the Protection of Individuals
with regard to Automatic Processing of Personal Data
(CETS № 108)**

“Within the framework of the modernization of the Convention № 108 the Russian Federation has consistently objected to the voting procedure set out in Article 20.3 of the Convention, which delegates the European Union the right to cast the number of votes equal to the number of its member-states in the Convention Committee (the T-PD).

Such voting mechanism automatically gives the European Union the majority necessary to pass most of the decisions of the T-PD. As such, it is clearly unbalanced and prejudicial to the rights of the Parties to the Convention (whether Council of Europe member-states, or not) who are not members of the EU. This disbalance becomes all the more inappropriate in view of the widening of the competence of the T-PD under the modernised Convention.

Furthermore, this provision does not reflect, and, in fact, appears contrary to the existing voting standards of the subordinate bodies of the Council of Europe. Moreover, it is not in line with the modalities of participation of the European Union in other international organisations and bodies.

In light of the above the Russian Federation stands behind its proposal to remove the aforementioned voting mechanism from Article 20.3 of the modernised Convention and intends to pursue this matter at the subsequent stages of the consideration of this issue.”