

PRESENTATION GUIDE
6th Data Protection Day
5th International Conference Computers, Privacy and Data Protection - European Data Protection: Coming of Age
Modernising Convention 108 in face of the IT Revolution
Commissioner Sigrid ARZT
Brussels, Belgium 24-27 January 2012

Good afternoon ladies and gentlemen, it is an honor both for IFAI, the Mexican Authority in Data Protection and for me personally to be with you here today celebrating the 6th Data Protection Day. First of all, I would like to thank the Council of Europe for inviting the Mexico's Federal DPA to be part of this interesting discussion and to particularly share a few words with you about us as an authority.

I am one of the five commissioners at Mexico's Federal DPA, the Federal Institute for Access to Information and Data Protection (IFAI). Since 2003, IFAI has taken several actions to guarantee data protection held by public entities. Ever since then, this Institute has promoted a culture of protection and data security; has developed and applied normative instruments such as the Data Protection Guidelines; it has also solved many controversies related to the rights of access to information and rectification as well as it has supervised the compliance through the issuance of verifications, general guidelines and recommendations, all of these until year 2010 for the public sector.

Eighteen months ago with the launch of the Federal Data Protection Law for Private Entities on July 2010 IFAI's authority was strengthened. The law extended our powers to the private sector with the possibility to conduct investigations and to impose sanctions in case of infringement of the Law. This means that the Institute is compelled to ensure due observance of a fundamental right that empowers individuals to decide upon their data held by both the federal agencies and the private parties, whether being enterprises, organizations or individuals. Certainly, one of our critical challenges is to make individuals aware of their rights and so IFAI has launched a media campaign, with very positive results.

As some of you know, back in November of 2011, IFAI hosted the 33rd International Conference of Data Protection and Privacy Commissioners. In this regard, I will share with you some of the main highlights about this international conference that took place in Mexico City, particularly regarding the session of Ibero-American Data Protection Network of which Mexico is chairman.

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During this edition, IFAI offered an entire week of privacy activities. Among these events we had the Public Voice Meeting named “Privacy is Freedom”, which explored the challenges on privacy issues emphasizing recent developments in Latin America.

Three other important closed sessions were held during the privacy week. For the first time in Latin America, the Association of the Francophone Authorities of Personal Data Protection held its annual meeting in Mexico. The Data Protection Authorities also held its Closed Session, gathering 47 Data Protection Authorities and 6 International Organizations (Council of Europe, European Commission, OECD, European Data Protection Supervisor, Europol and Interpol). A total of 129 participants were present. Two DPA accreditations were granted: Bosnia and Herzegovina and Morocco.

In addition, an Executive Committee was also constituted. The Dutch DPA was elected chair and its Committee is comprised by the United States of America, Australia, Uruguay and Mexico. A new working group was integrated, called the International Enforcement Working Group (IEWG). It is coordinated by Canada and the UK, and its members are the United States, New Zealand, France, Germany, Poland, Spain, Mexico, Ireland, and Israel. Important to know that Uruguay was elected to be the next Host Authority and the 34th meeting is planned to take place in the month of October on 21-26, with the *Mexico City Declaration* was presented and all the documents are available on the official website www.privacyconference2011.org

For the purpose of this panel, I will highlight the participation of the Latin-American region in the framework of the International Conference. IFAI, as chair of the Ibero-American Network, also hosted the IX Ibero-American Network for Data Protection. 17 Data Protection Authorities participated (among them Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Panama, Peru, Portugal, Uruguay, Spain, United States of America and Venezuela); 2 International Organizations (Council of Europe and the Organization of American States). During this session at the

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time, the panelists indicated that the Convention's articles could be enriched through analyzing the Convention's reform at the Network and that wording devised at the European Union's legal framework should also be integrated.

The purpose of that meeting was to gather recommendations in-puts from Ibero-American delegations on the Convention. Specifically, the panelists indicated that the Convention's articles could be enriched through analysis at the Ibero-American Network. The main conclusions of the meeting were:

1. To keep the simple and pragmatic nature of its wording, but yet to enhance sector texts with greater detail through flexible legal instruments (such as recommendations by the Consultative Committee or Ministers Committee);
2. To ensure coherence and compatibility with the European Union's legal framework;
3. To uphold the Convention's universal mission and values.

The presentation and discussion highlighted the importance of Latin American for the Council of Europe.

- These countries have a strong influence of the Convention's legal system, so the Council considers them as natural candidates;
- It is expected that one of the benefits for the States are guaranteeing free data flows between the Parties, as well as mutual help and cooperation on the implementation of the Convention and its participation in the Consultative Committee;
- Latin America is particularly important as the Council considers that it is the region where legislation has recently added data protection in innovative ways and that their regulatory frameworks are hybrid: they integrate both, the European data protection system and aspects of the American privacy-consumer rights;

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- The Council had a particular interest in knowing the opinion of the Latin American authorities in how they could apply the principle of accountability and responsibility for data processing;
- The Committee of Ministers asked the Consultative Committee to prepare a draft regarding consultations developed in 2011. This draft includes proposals for Latin America along with other countries, and that were published in November 2011.

As, Secretary General of the Council of Europe, stated in a communiqué of November of 2011, one of the Convention's assets is its international appliance and openness to all other countries.

For the above reasons, the Mexican legislation, is a leading authority in data protection in the Latin America region and was one of the first countries to implement and enforce data protection as a fundamental right in its Constitution. Mexico is also a pioneer in creating transparency systems, pursuing democracy fully and is a key player in global affairs in discussions of privacy rights.

Nowadays, it is impossible not to agree that individuals have the right to enjoy effective control over their personal information, in this sense it is imperative to highlight the proposal presented last Wednesday by Viviane Reding, Justice Commissioner, regarding the comprehensive reform of the European Union's 1995 data protection rules to strengthen online privacy rights and boost Europe's digital economy. The proposals update and modernize the principles enshrined in the 1995 Data Protection Directive to guarantee privacy rights in the future.

The European Union data protection reform aims to build a modern, strong, consistent and comprehensive data protection framework for the European Union. This represents a solid base not only for a European regulatory framework to effectively protect the fundamental right to data protection, it also shows the global challenge for all of us that are involved in data protection will have to face in order to develop further improvement in the matter. It is an important opportunity to accompany the work that the Council of Europe has been doing regarding the Modernization of

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Convention 108, with a key objective of strengthening data protection rights in the digital environment that will promote economic and technological developments while ensuring at the same time the protection for privacy.

As Mme. Maud de Boer-Buquicchio clearly stated during the works of International Conference:

“Everyone has a right to privacy. Everyone has the right to control the collection, use and disclosure of information about him or her. This right is the foundation of other freedoms and liberties that define open societies, in particular freedom of expression. (...) “

We welcome how the Council of Europe sees the open approach that it pursues as key to addressing the problem at the global level. Our world has shrink at a level where harmonization needs to be observed to protect a fundamental human right, but at the same time economic growth is not stall.

Indeed, IFAI considers that the European Data Protection framework key to further expand its good practices of data protection and respect for fundamental human rights. In keeping a close eye ahead Mexico will follow closely the evolving process under the framework of our Strategic Alliance with the European Union in order to enhance our own institutional-building and knowledge in data protection within our country and Latin-American region.

Thank you.