

**31**

Madrid 4, 5 y 6 de noviembre 2009
conferencia internacional
de autoridades de protección
de datos y privacidad

At the closed meeting of data protection authorities, within the 31st International Conference of Data Protection and Privacy

Data protection authorities from over 50 countries approve the “Madrid Resolution” on international privacy standards

- **The Madrid Resolution brings together all the multiple approaches possible in the protection of this right, integrating legislation from all five continents.**
- **It constitutes the basis for the drawing up of a future universally binding Agreement.**
- **The approved resolution includes a series of principles, rights and obligations that any privacy protection legal system must strive to achieve.**
- **One of the most relevant chapters of the document is the one that refers to proactive measures, whereby States are encouraged to promote a better compliance with the laws applicable on data protection matters, and the need to establish authorities to guarantee and supervise the rights of citizens.**
- **A group comprised of top executives from 10 large multinational companies has signed a declaration of support for the adopted proposal.**

(Madrid, 6th of November 2009).- The Joint Proposal on International Standards for the Protection of Privacy has been positively welcomed by Protection Authorities of 50 countries gathered within the framework of the 31st International Conference of Data Protection and Privacy, through the adoption of the “Madrid Resolution”.

This document, approved at the closed session attended by the data protection authorities, constitutes the base for the development of an internationally binding tool that will contribute to a greater protection of the individual rights and freedoms at a global level.

The proposal, which has been elaborated during the past year **under the coordination of the Spanish Data Protection Agency (AEPD)**, has resulted in a document that tries to include the **multiple approaches possible in the protection of this right, integrating legislation from all five continents.**

According to Artemi Rallo, these standards are a proposal of international minimums, which include a set of principles and rights that will allow the achievement of a greater degree of international consensus and that will serve as reference for those countries that do not have a legal and institutional structure for data protection. Even though the approved resolution is not directly binding at an international level, Artemi Rallo has pointed out that this document, **will have “immediate value” as a reference tool and, moreover, as a starting point** for those countries that still lack legislation on the matter, and for the corporate world and international companies. According to the director of the AEPD, the Madrid Resolution will, thus, become a **“soft law” tool, widely demanded** mainly by international companies, in order to respect the minimum privacy needs of citizens worldwide.



In this sense, the approved resolution entrusts upon the AEPD and the Authority in charge of hosting the 32nd International Privacy Conference the coordination of a contact group for the promotion and broadcasting of the joint proposal, as the basis for future work on the elaboration of a universally binding Agreement.

Content of the resolution: articulation and basic principles

The proposal on international standards includes a series of principles, rights and obligations that any privacy protection legal system must strive to achieve.

The text's purpose is to **define a series of principles and rights** that guarantee the effective protection of privacy at an international level, as well as to ease the **international flow of personal data**, essential in a globalized world. Among the basic principles that must govern the use of personal data, and which have inspired the document, we find those of **loyalty, legality, proportionality, quality, transparency and responsibility**; all of them are common to the different existing legal texts in the various regulations on the matter and enjoy wide consensus in their corresponding geographical, economic or legal application environments.

The Joint Proposal of International Privacy Standards includes, in addition, in its articulation, the need for the existence of supervisory authorities, and for the different states to cooperate and coordinate their activities. Furthermore, the set of rights such as **access, rectification, cancellation and objection** and the way in which they can be exercised. It also includes obligations such as **security of personal data**, through those measures that are considered appropriate in each case, or **confidentiality**, which affects the controller as well as anyone who participates in any of the stages in which personal data is managed.

In addition, it includes the requirements that must be met for the legal collection, preservation, use, revelation or erasure of personal data, such as, for example, the prior obtaining of the free, unequivocal and informed consent from the person providing the data.

The document also defines sensitive data as that data that affects the most intimate side of a person or whose misuse can originate an illegal or arbitrary discrimination, or may imply a severe risk for the said person.

On the other hand, the text recalls that, as a general rule, **international personal data transfers** may be performed when the State to which the data is transferred offers, at least, the level of protection foreseen in the document; or when whoever wants to transfer the data can guarantee that the addressee will offer the required level of protection, for example, through appropriate contractual clauses.

One of the most relevant chapters of the document is the one that refers to **pro-active measures**, which encourages States to **promote a better compliance with the applicable laws regarding data protection matters**, through instruments such as the establishment of procedures aimed at the prevention and detection of offences, or the periodic offering of awareness, education and training programs.

Declaration of corporate support and the Council of Europe

A group of 10 large companies (Oracle, Walt Disney, Accenture, Microsoft, Google, Intel, Procter & Gamble, General Electric, IBM and Hewlett-Packard) has signed a declaration in which they proudly welcome the initiative from the 31st International Conference for



exploring frameworks to achieve an improved global coordination of the different privacy policies.

In this declaration, the signing companies encourage Data Protection and Privacy Authorities to continue insisting and collaborating in the development of transparent systems that will allow the taking on of responsibilities and that will provide accurate information to the citizen, granting him/her the power to decide.

Also, recently, the group on data protection from the Council of Europe, in a meeting celebrated just a few months ago, decided to support the initiative approved by the data protection authorities to adopt these international privacy standards and, with this, contribute to expand and promote a worldwide framework for the protection of privacy.

Necessary and urgent standards

The mission of approving this Joint Proposal was the **main priority of this 31st International Conference**, a result of the task entrusted and included within the unanimous resolution adopted by the prior Conference celebrated in Strasbourg. This resolution stated the urgent need to protect our privacy in a world without borders and to attain a joint proposal for the establishment of international standards on privacy and data protection.

In consonance with this mandate, the AEPD established a Working Group which has been working since then to elaborate this Joint Proposal, assuming that all these common principles and approaches contribute valuable elements to the defence and promotion of privacy and personal information, with the aim of extending those criteria and incorporating applicable solutions.