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iSupport

cross-border recovery
of maintenance obligations
*pour le recouvrement
transfrontière des
obligations alimentaires*

iSupport Data Protection Working Group (4) – 12 February 2015 Meeting

Draft Report of Meeting n°2

List of Participants

Experts	iSupport Team
Bert BLÖS (Estonia) Robert BLUKIS (Latvia) Mary BUTLER (United States of America) Simone CUOMO (CCBE) : Excused Inez LOPES (Brazil) Hannah ROOTS (NCSEA) Thomas STEIMER (Switzerland)	Philippe LORTIE (Chair) Brigitte VOERMAN Juliane HIRSCH Marie VAUTRAVERS Patrick GINGRAS

Introduction

1. Philippe Lortie, First Secretary, welcomed the experts to the Meeting of the Data Protection Working Group.

I. FOLLOW UP - LAST MEETING

- **Security scans / Nomination of volunteers / Content and timelines of security scans**

3. As already requested during the first meeting of the Data Protection Working Group, Philippe Lortie indicated that the assistance from volunteer experts to conduct security scans would be extremely valuable. He added that those security scans would take place in the development phase, most likely during the autumn of 2015.

4. A participant from the United States of America answered positively and offered the assistance of an American expert.

5. Philippe Lortie and Brigitte Voerman emphasized the importance of having several experts from different background performing the security scans and invited the experts to investigate any further availability in their State.

- **Data protection officers / Input from Data Protection Officers**

6. Following his request expressed during the last meeting, Philippe Lortie asked if any information had been collected by the experts from their Central Authority data protection officer.

7. An expert from Brazil explained that she was not able to report to a data protection officer, since this position did not exist in her State. She further indicated that in Superior and Federal Supreme Courts of Justice, specific laws provide for the protection of certain cases data, but were not related per se to personal data protection. In response to a question from Philippe Lortie, she specified that any request to access personal information issued by a citizen would be transferred to a judge. Only a judge is in a position to assess the right of an individual to access this information.

8. Philippe Lortie observed that Brazilian access to information process was mostly judicial, and asked the other experts whether access to information related decisions would be administrative or judicial in their States.

9. The experts from Latvia, Estonia, Canada Switzerland and United States of America stated that access to information was based on a purely administrative process, either in conjunction with a data protection officer, or with the head of the Central Authority.

10. An expert from Estonia observed that several States would be involved in processing the personal data including data from foreign citizens. He queried the responsibility of the decision to give access to information in the different Central Authorities. He expressed concerns about the conditions of designation of the Controller in charge of informing the data subject under the European legislation. Furthermore, he asked who would be considered the controller and who would be considered the processor of data, with regard to the implementation of the system in different countries.

11. Philippe Lortie observed that a data subject would only have access to a restricted amount of data, which would be limited to his personal data. He summarised that each State would appoint a controller responsible for the data stored in its domestic database. He indicated that many data were already exchanged amongst States in the area of social security for instance. He concluded that each State would respond to a data subject request on the basis of its domestic laws and regulations.

II. DATA PROTECTION RELATED ISSUES

- **Editing and deleting electronic notes referring to a case**

12. Philippe Lortie referred to the Functional Requirements Working Group discussions on the possibility for a caseworker to edit or delete notes. He observed that notes belonging to a case would be made available in iSupport in order to enable the case worker to store case-specific information. He indicated that the option to delete or edit such notes afterwards had been the subject of discussions between experts members of the Functional Requirements Working Group. He explained that the iSupport team had internally reached the conclusion that any note would belong to the case, and should accordingly be handled under access to information law without any possibility of deletion or modification. However, he observed that some experts had expressed their concern about not being able to edit their own notes. Juliane Hirsch further explained that some experts had indeed requested the opportunity to have individual notes on top of the “official” notes. The case worker would be allowed to edit and delete those personal notes. She accordingly asked the experts whether such a dual system of personal and official notes would be suitable in their State.

13. All the experts unanimously agreed that notes should not be editable nor deleted, and that creating two different kinds of notes (personal and official) would mean offering the case worker the option to circumvent the access to information rules.

- **Data management approaches – “person based” and / or “case based” approach**

14. Philippe Lortie referred to the Functional Requirements Working Group discussion with regard to the question as to whether it is possible to use information related to an individual in other cases concerning this person without restriction. He remarked that two approaches could be contemplated with regard to data management. A first option is to manage identical information separately in different cases, which leads, for example, to enter and update the information related to a party as many times as the number of cases, if the same party is involved in several different cases. Philippe Lortie recommended adopting another approach of storing the person based information in the database only once. He observed that this would accordingly allow the case worker to enter or update this data in only one location. He underscored the impact of this issue with regard to the high number of different actors in a case. He however queried the possible implications in terms of data protection. He therefore asked the participant whether their domestic data protection regulation would require a notification to the data subject when data belonging to one case are being “transferred” in a new case.

15. Juliane Hirsch remarked that this question only related to open cases, and observed that while closing a case, iSupport would ensure the deletion of data specifically related to this case, as long as the data is not related to a different case.

16. Further to an observation from an expert, Philippe Lortie specified that iSupport would have a general case-based approach, and would in addition manage actors involved in different cases on a “person based” approach. Juliane Hirsch clarified that those two different approaches were related to the possible storage of linked data into the local database, and not to the communication of data between different States. She mentioned that in the event of a change of address of a party involved in several cases, the case worker would need to change the address only once. She explained that all other cases containing the same information would be automatically updated.

17. An expert from Estonia opined that data related to a party should be stored only once, and not in each case. He added that, subject to the condition that the purpose of processing this “re-used” data would be similar, a new information of the data subject would not be required.

18. An expert from Canada observed that due to the existence of different legislative streams in his State impacting the sharing of third parties differently, he would have to investigate more on the information obligation. He summarised that the applicant consent would be deemed, but indicated that further investigation on the defendant consent would be necessary to properly answer this question.

19. Juliane Hirsch highlighted the importance of this issue with regard to the address data history. She explained that a history of address data would be available, and queried the possibility to transfer this history to a new case involving the same party, under the applicable data protection law. She shared the view of the expert of Estonia that the purpose of processing that data would be in both case identical (maintenance recovery). She however underscored the need for continued work on this question, in order to develop the appropriate mechanism in iSupport complying with all the existing and possibly contradictory legal situations.

- **Next Steps**

20. Philippe Lortie noted that this was the last meeting of the Data Protection Working Group. He however invited the experts to share any new issues or concerns with the iSupport team. He stated that a Prior Information Notice would be released in early April 2015, including a draft call for tender and the draft deliverables document. He indicated that those documents would be circulated amongst the experts and welcomed any comments. He invited the experts to remain available during the development and testing phase, with a view to answering any arising issue as fast as possible.

30. In closing, Philippe Lortie thanked the experts for their extremely valuable participation.

