

INTERNATIONAL STANDARDS on data protection & privacy



AGENCIA
ESPAÑOLA DE
PROTECCIÓN
DE DATOS



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There are **different regional approaches** to privacy and data protection all around the world:

- Directive 95/46/EC
- OECD Guidelines on the Protection of Privacy
- APEC Privacy Framework
- Convention 108 of the Council of Europe...

It entails

Less protection for individuals
More complexity for business

The 30th International Conference of Data Protection and Privacy Commissioners **adopted unanimously** a draft resolution proposed by Switzerland and Spain that...

- supports the efforts of the Council of Europe, and the action taken within OECD, APEC...;
- mandates “the establishment of a **working group** (...), **to draft** and submit to its closed session a Joint Proposal for setting **international standards on privacy and personal data protection**”.

The adopted resolution also set the **main criteria** for the drafting process:

- To elaborate a set of principles and rights aimed to achieve the **maximum degree of international acceptance**, ensuring at once a high level of protection.
- To formulate the essential guarantees for **better international transfers** of data.
- To examine the **role of self-regulation**.
- To obtain the broadest **institutional and social consensus**.

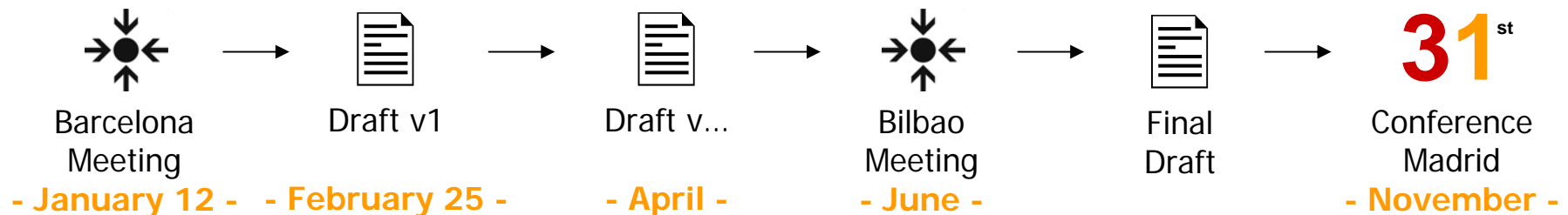
→ First step: Barcelona meeting

Launched the drafting process

- High attendance: 54 experts from 15 countries
- DPAs, Industry, NGOs, Academics...

Set up the major guidelines of the Joint Proposal and the working methodology

- Drawing up the common principles and rights
- Complementing them with new proposals



The first version is structured in **6 parts**

General provisions (purpose, definitions, scope)

Basic principles

Legitimacy for processing

Rights of the data subject

Security

Compliance and monitoring

→ Some Main Innovations

To promote **international data transfers**

...if the recipient offers a **similar level of protection** to that provided by the International Standards

To review the definition of **filing system**

...¿an obsolete concept?

To encourage **proactive** measures

...as a way for reducing liability in case of infraction

To reduce **bureaucratic requirements**

...that in practice do not improve data protection

→ Some Main Innovations

To review the **controller/processor** notions

The “responsible person or organization” decides on the existence of the processing.

To broaden the **Supervisory Authority** idea

...that, for instance, may be an arbitration institution or a consumer authority.

To inform individuals of **security breaches**

...when they could be seriously impaired

To analyze the **relevant law**

...on the Internet age.

→ 31st Privacy Conference

31st

Privacy Conference

NOVEMBER 4 - 6 MADRID 2009

The draft proposal will be submitted to the 31st Privacy Conference, that **is being organized by the Agencia.**

If approved, the next step has to be defined: towards a **binding instrument?**



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www.privacyconference2009.org