



## **42<sup>ND</sup> CLOSED SESSION OF THE GLOBAL PRIVACY ASSEMBLY**

**OCTOBER 2020**

### **ADOPTED RESOLUTION ON THE PRIVACY AND DATA PROTECTION CHALLENGES ARISING IN THE CONTEXT OF THE COVID-19 PANDEMIC**

This Resolution is submitted by the National Privacy Commission of the Philippines on behalf of the GPA COVID-19 Taskforce.

#### **SPONSORS:**

- National Privacy Commission, The Philippines
- European Data Protection Supervisor, European Union
- Information Commissioner's Office, UK

#### **CO-SPONSORS:**

- Commissioner for Personal Data Protection, Albania
- Agencia de Acceso a la Información Pública, Argentina
- Office of the Australian Information Commissioner, Australia
- Commission Nationale de l'Informatique et des Libertés, Burkina Faso
- Office of the Privacy Commissioner, Canada
- Data Protection Commissioner, Council of Europe
- Privacy Commissioner for Personal Data, Hong Kong
- Garante per la Protezione dei Dati Personali, Italy
- Personal Information Protection Commission, Japan
- Information and Data Protection Commissioner, Malta
- Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales, INAI
- Office of the Privacy Commissioner, New Zealand
- Personal Information Protection Commission, Republic of Korea
- Autorità Garante per la protezione dei dati personali, Repubblica di San Marino
- Federal Data Protection and Information Commissioner, Switzerland
- Regulatory and Control Unit of Personal Data, Uruguay

## **The 42<sup>nd</sup> Global Privacy Assembly:**

**Recognising** the unprecedented privacy and data protection challenges arising in the context of the COVID-19 pandemic, including the intensified collection, use and disclosure of sensitive personal data in analysing and mapping the origin and spread of the virus as well as the privacy risks stemming from the acceleration in the pace of digital transformation and formulation of new digital solutions;

**Acknowledging** that these challenges have also demonstrated the value of common principles in privacy and data protection for enabling the appropriate and proportionate use and sharing of information, as well as digital innovation, necessary to support efforts to tackle the global pandemic;

**Recalling** the GPA's Strategic Priorities (2019 – 2021) of Advancing Global Privacy in the Digital Age, Maximising the Assembly's Voice and Influence as well as Capacity Building for the Assembly and its Members;

**Welcoming** the two statements issued by the GPA's Executive Committee on 17 March and 21 May 2020 in response to the unprecedented challenges being faced by the GPA community in addressing some of the emerging privacy issues posed in the context of the spread of the virus;

**Highlighting** that adopting a Privacy by Design approach in containment measures of the virus, including those involving the use of technology, will promote public trust that personal data will be processed fairly, lawfully and securely with due regard for transparency and accountability;

**Highlighting further** the pivotal role privacy and data protection authorities play in providing guidance and assistance to governments, relevant organizations and other stakeholders on how to handle and share appropriately personal data in the context of the pandemic;

**Stressing** that data and technology used to help fight COVID-19 should be used to empower individuals and that, while data and technology – including contact tracing applications – can be important tools, they have intrinsic limitations and can merely leverage the effectiveness of other public health measures and need to be part of a comprehensive public health strategy to fight the pandemic;

**Highlighting** that the principles of effectiveness, necessity, and proportionality must guide any measure adopted by government and authorities that involve processing of personal data to fight COVID-19;

**Recognising** the important work completed by the GPA COVID-19 Taskforce in identifying the pressing privacy issues that have emerged as a result of the pandemic through the findings of the GPA COVID-19 survey which include:

- a.** contact tracing , including digital contact tracing, as the most pressing concern of jurisdictions which have been given the highest priority by authorities to date;
- b.** handling of employee data in work from home/return to work situations;

- c. handling children/student's data associated with the use of e-learning and online schooling technologies;
- d. sharing of health data between hospitals and health ministries and other relevant government bodies.

**Acknowledging** the need for employers to explore and adopt various working arrangements to maintain business continuity, and the need to preserve and protect the health and well-being of the workforce while ensuring only necessary, proportionate and transparent collection of personal data and necessary safeguards to the privacy of health information obtained from employees;

**Recognising** that children are a vulnerable segment of the population, that increased adoption of online education methods during the pandemic potentially exacerbates the risks to children's privacy, and that safeguards are needed to ensure children can learn in a "privacy safe" environment, thereby bringing to the forefront the key privacy issues that need considering when adopting e-learning or other digital education technologies such as purpose limitation, privacy and data protection by design and by default and the completion of privacy and data protection impact assessments;

**Highlighting** that privacy and data protection enforcement authorities should continue to play a pivotal role in providing guidance and assistance for government, relevant organizations and other stakeholders on how to handle and share personal data appropriately in the context of the pandemic;

**Welcoming** the significant contribution of GPA COVID-19 Taskforce initiatives, including GPA sponsored webinars as well as events in collaboration with other stakeholders and other outreach activities, aimed at information sharing and capacity building for the GPA community and strengthening engagement with relevant stakeholders;

**Recognising that,** as plans for response and recovery become operational, it is important that measures to adapt to the "new normal" take data protection and privacy requirements fully into account;

**Recognising further** the global privacy challenges stemming from these measures and the need for GPA collaboration on privacy and data protection issues to minimise resulting data protection and privacy risks:

**The 42<sup>nd</sup> Global Privacy Assembly therefore resolves to:**

1. **Welcome** the *Compendium of Best Practices*, compiled by the Privacy Commissioner for Personal Data, Hong Kong, China, drawing on contributions of members of the GPA COVID-19 Taskforce and GPA community;
2. **Call upon** all GPA members and observers to continue to promote regulatory cooperation, including with relevant non-privacy supervisory authorities as well as with regional networks, as COVID-19 prevention, mitigation and response require coordinated responses at global level;
3. **Call upon** all key actors engaged in contact tracing measures, including digital contact tracing solutions, to take a data protection and privacy by design approach when designing these measures and to recognise the pivotal role privacy and data protection play in promoting public trust;
4. **Encourage** all GPA members and observers to continue to contribute to the expansion of the GPA COVID-19 Response Repository and event calendar created on the GPA website;
5. **Ensure to continue** building and strengthening our collective capacity, including through the hosting of workshops or webinars, in order to adequately respond to the data protection and privacy issues arising from the COVID-19 pandemic, in particular the key issues and priorities identified through the GPA COVID-19 survey;
6. **Establish** a new temporary Working Group (Working Group on COVID-19 related Privacy and Data Protection Issues) with an initial mandate of one year. The Working Group on COVID-19 related Privacy and Data Protection Issues will continue the work of the Taskforce to build and strengthen our collective capacity in responding to data protection and privacy issues arising from the COVID-19 pandemic, by:
  - i. considering, making recommendations for and coordinating the GPA's responses on privacy and data protection issues arising in the context of the COVID-19 pandemic and the road to recovery, particularly those issues and priorities identified through the GPA COVID-19 survey;
  - ii. engage with GPA members and observers with a view to keeping the *Compendium of Best Practices* updated as new privacy and data protection issues emerge as part of the ongoing COVID-19 recovery response;
  - iii. collaborate with relevant international organizations, networks and privacy advocates in strengthening the capacity of GPA members and observers and sharing of information on the other pressing issues identified through the GPA COVID-19 survey;

- iv. Reporting on the progress of the Working Group, and the scope of any related considerations for future working arrangements, to the 2021 closed session.

### **Explanatory note**

This Resolution draws from the work conducted so far by the GPA COVID-19 Taskforce.

The Taskforce was established in May 2020 following a decision taken by the GPA Executive Committee.

As countries across the world have responded to the COVID-19 health crisis and the need to allow businesses to re-open and citizens to return to a semblance of normal life, the GPA community has been confronted with unprecedented common data protection and privacy challenges.

Recognising these challenges and the need to demonstrate leadership and offer practical support to the GPA community at a time when authorities are under unique pressures, the GPA Executive Committee convened on 23 April 2020 in an extraordinary meeting during which the Committee agreed on the establishment of a GPA Covid-19 Taskforce.

The Taskforce was chaired by Executive Committee member Raymund Liboro – National Privacy Commission, Philippines – and it included representatives from more than thirty (30) members, across GPA members and observers.

In addition to this Resolution, the Taskforce undertook activities to promote the sharing of information and knowledge in these crucial times so as to support the GPA community in its efforts to respond to the privacy and data protection challenges emerging as part of governments' and public health authorities' responses to the COVID-19 pandemic. These included:

- conducting a survey in June 2020 to identify the most pressing privacy-related issues arising in the context of the pandemic, the results of which have been published on the GPA website;
- a Compendium of Best Practices, to be presented at the closed session, which collates the responses of 32 GPA members and observers to a survey conducted in August and September 2020 on best privacy practices in the context of the pandemic. The Compendium focusses on those privacy issues identified as the most pressing by GPA members in the June 2020 survey and it is conceived as a living document to be used as a capacity building tool by the GPA community;
- maintaining a resource repository and calendar of events on the GPA website;
- delivering a number of capacity building and outreach activities, including with relevant international organisations and stakeholders, which explored some of the most pressing privacy issues emerged in the context of the pandemic with an initial focus on digital contact tracing solutions.

As data protection and privacy authorities and members of the GPA community, we are called upon to participate and play an active role to the best of our abilities in dealing with the challenges stemming from the COVID-19 pandemic. We are reminded to be agile as we enable measures and

strategies to prevent the further spread of COVID-19, while protecting individuals' privacy and data protection rights. We are called upon to assist and provide guidance, to coordinate and share best practices. We are constantly challenged to find the most appropriate solutions to safeguard privacy rights while supporting and enabling effective health responses to the crisis.

As the Taskforce concludes its mandate from the Executive Committee, but these challenges continue, it is appropriate for the Closed Session now to take a decision on the creation of a new Working Group to continue and take forward this important work.