



PUBLIC CONSULTATION / REGULATORY ENGAGEMENT

Comments on the notice of prescription of additional categories of sensitive personal data

Submitted by the African Centre for AI Governance and Oversight (ACAIGO)

SUBMITTED TO	Office of the Data Protection Commissioner
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CONTACT	Email: info@acaigo.africa , website: https://www.acaigo.africa/

Executive summary

ACAIGO welcomes the proposed recognition of political affiliation and trade union membership as sensitive personal data. However, we recommend that this recognition apply irrespective of the jurisdiction from which the data originates, ensuring that equivalent personal data receives the same level of protection.

The African Centre for AI Governance and Oversight (ACAIGO) welcomes and supports the Office of the Data Protection Commissioner's intention to strengthen the protection afforded to personal data revealing political affiliation and trade union membership. ACAIGO is, however, concerned that the proposed prescription applies only where personal data is transferred to Kenya from a jurisdiction that already categorises political affiliation or trade union membership as sensitive or special-category personal data.

In ACAIGO's view, the risks identified in the Notice are not unique to data subjects whose personal data is transferred from jurisdictions that already categorise political affiliation and trade union membership as sensitive personal data. Kenyan data subjects and other individuals whose data is collected within Kenya are equally susceptible to discrimination in employment, political targeting, intimidation and reputational harm arising from the misuse or unauthorised disclosure of their political affiliation or trade union membership.

The proposed prescription of additional categories of sensitive personal data may therefore result in unequal levels of protection for equivalent personal data processed in Kenya. Personal data transferred from jurisdictions that classify political affiliation and trade union membership as sensitive would receive greater protection than equivalent data collected in Kenya or transferred from jurisdictions that do not recognise these categories as sensitive.



ACAIGO therefore invites the Data Commissioner to prescribe political affiliation and trade union membership as sensitive personal data, irrespective of the jurisdiction from which the data originates.

For ACAIGO

Jane Awuor, FIP, AIGP
LLM AI and the Law
Queen Mary University of London

AFRICAN CENTRE FOR AI GOVERNANCE AND OVERSIGHT

<https://www.acaigo.africa/> | info@acaigo.africa | Nairobi, Kenya