

COMMUNIQUE

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SPECIAL POINTS OF INTEREST:

- Executive Committee splits on accreditation decisions
- Amie Stepanovic will participate in the Encryption session
- Network of the Nordic Data Protection Authorities

MESSAGE FROM THE CHAIR

As-salām 'alaykum. Peace be upon you. In less than 2 weeks we gather in Marrakesh for the 38th meeting of the International Conference of Data Protection and Privacy Commissioners.

Our hosts, the Moroccan Data Protection Authority, with the support of the ICDPPC Executive Committee, have put a great deal of effort into organising a stimulating, forward-thinking programme for both the closed and public sessions.

There will also be a large variety of side events drawing together many strands of privacy activity from regional and specialised networks, business and civil society.

As you will have read in our last newsletter, the theme for the closed session of the 2016 conference is artificial intelligence, robotics and encryption, and the implications these developing branches of technology have for privacy and data protection.

But there are other issues that also need your attention, including your DPA's thinking on each of a number of resolutions that will be the focus of the conference. These include:

- Resolution on developing new metrics of data protection regulation
- Resolution on human rights defenders



- Resolution for the adoption of an international competency framework on privacy education
- Resolution on international enforcement cooperation.

Registered delegates for the closed session can download the various documents at the members' area of the 38th Conference website (<https://www.privacyconference2016.org/>). Check back regularly as new and updated documents are uploaded.

We also expect to open a discussion on the future size and membership of the Conference. Come prepared to express a view as to whether the Conference should be open and inclusive, accepting all independent authorities with a data protection privacy mandate, or should the criteria be more exclusive? Should authorities with regional rather than national mandates be admitted? What about authorities with a sectoral mandate only? And if we tighten the current criteria, should some current members be excluded in the future? See you in the 'Ochre City' from 17th until 20th October 2016 for the 38th ICDPPC.

John Edwards — New Zealand Privacy Commissioner and Chair of the ICDPPC Executive Committee

EXECUTIVE COMMITTEE: HIGHLIGHTS OF SEPTEMBER MEETING

The Executive Committee met via tele-conference on 21/22 September 2016. Highlights include:

- The Committee discussed accreditation applications. A fuller account of the outcome of these deliberations appears later in this newsletter.
- The Committee received updates on preparation for the closed and open sessions.
- The Chair reported on efforts to reach out to GPEN proposing to enter into an MoU. As the GPEN Committee had no mandate to enter into an MoU this proposal has been withdrawn.
- The Committee endorsed the Chair's proposal to confer global awards at the 39th Conference.

EXECUTIVE COMMITTEE SPLIT ON ACCREDITATION APPLICATIONS

Governments around the world continue to set up data protection authorities and the Secretariat was pleased to have received 12 applications for membership this year. However, not all were successful as the Executive Committee agreed only to recommend 5 applicants for membership.

The Committee generally seeks to decide matters by consensus. This was possible in relation to 8 of the 12 applications. By consensus the Committee recommended membership for 5 applicants (from Armenia, Cape Verde, Cote d'Ivoire, Mali and Philippines) and declined to recommend membership for a further 4 applicants (from Nigeria (2), Russia and Washington State). One application (from Montenegro) was received too late to process and was deferred to be considered by the next Committee.

Consensus was not possible in the remaining 2 cases and a Committee vote was taken. Both applications (in relation to Japan and a Belgian Police Information Management DPA) had a majority of 2-3 vote not granting membership status. Morocco and New Zealand were in favour of membership while Canada, France and the Netherlands opposed.

The Committee by consensus agreed to recommend 5 of the 6 rejected membership applicants to be accredited as observers to the 38th Conference. Consensus was not possible in relation to the application from the Belgian Police Information Management DPA but on a vote a 4-1 majority supported observer status. Canada, Morocco and New Zealand were in favour

of recommending observer status while France and the Netherlands were opposed.

There was active interest in being accredited as an observer from international organisations, public bodies and, from left field, a law firm. The Secretariat received 7 observer applications.

By consensus the Committee recommended observer status for 2 international organisation applicants (from APEC and ICRC) and 1 public body (from Kenya) and declined to recommend observer status for a 2 applicants (Baker & McKenzie and an applicant from Denmark).

Two observer applications went to a vote. The IOM was recommended for observer status on a 4-1 vote (Canada, Morocco, the Netherlands and New Zealand in favour with France opposed) while a majority on a 2-3 vote did not support observer status for the US Department of Justice (Morocco and New Zealand were in favour while Canada, France and Netherlands were opposed).

Criteria for accreditation as a member

Procedural: Written application to Secretariat 3 months before annual meeting

Five Substantive Criteria for applicants:

- A public entity, created by an appropriate legal instrument.
- Has the supervision of the implementation of data protection or privacy law as one of its principal regulatory mandates.
- The law under which it operates is compatible with the principal international data protection or privacy instruments.
- An appropriate range of legal powers to perform its functions.
- Appropriate autonomy and independence.

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COMMISSIONER PROFILE IRELAND: HELEN DIXON

Helen Dixon, Data Protection Commissioner of Ireland

www.dataprotection.ie

Where did you grow up?

Ireland

When did you first become involved in data protection?

I've been involved in data protection in some form or other throughout most of my career. I worked for a number of IT multinationals located in Ireland and later public sector bodies where my roles included compliance. I took up the post of Commissioner for Ireland in autumn of 2014.

What was your first International Conference?

Mauritius, October 2014.

What did you do before you became a Commissioner?

Directly prior to becoming Commissioner, I held a regulatory role as the Registrar for Irish incorporated companies. Prior to that, I held senior policy roles in the Irish ministry for Enterprise. For the first 11 years of my career, I worked for two US IT multinationals that had their EMEA headquarters based in Ireland.

What was the funniest thing that happened to you at an International Conference?

As I had just been appointed, I booked very late for the Mauritius conference and had to stay in a hotel 10 kilometres or so from the conference hotel. The parrot at the hotel reception took a particular "shine" to me and screeched the hotel down whenever I approached. In retrospect, it may have been trying to tell me its privacy rights were being contravened in that cage....

What is the best thing about participating in the International Conference?

The networking with peers, industry stakeholders and practitioners and the learning from real experts in the field.

In the last 12 months, what has been the greatest achievement of your office?

The greatest achievement of the Irish DPC in the last twelve months has undoubtedly been the doubling of our staff with new hires that bring additional and relevant skills to the office. In addition, we have opened a branch of the office in the capital city, Dublin that allows us to better deliver on our regulatory priorities.



"What information consumes is rather obvious: it consumes the attention of its recipients. Hence a wealth of information creates a poverty of attention"
 Professor Herbert Simon (1916 – 2001), Nobel Laureate (Economics) 1978"

COMMISSIONER PROFILE ISLE OF MAN: IAN MCDONALD

Iain McDonald, Isle of Man Information Commissioner

www.gov.im

Where did you grow up?

Belfast, Northern Ireland.

When did you first become involved in data protection?

As a data user in 1986 under the UK DPA 1984, as a regulator in 2003 in the Isle of Man.

What was your first International Conference?

London, 2006.

What did you do before you became a Commissioner?

I worked in IT developing information systems, final project included a Courts Adminis-

-tration & Fines system and a Land Registration system.

What was the funniest thing that happened to you at an International Conference?

May have been in a bar so no further comment!

What is the best thing about participating in the International Conference?

Meeting colleagues, discussing common issues and solutions and understating that I have not gone completely mad.

What is your favourite privacy quotation?

"What information consumes is rather obvious: it consumes the attention of its recipients. Hence a wealth of information creates a poverty of attention"
 Professor Herbert Simon (1916 – 2001), Nobel Laureate (Economics) 1978



PROFILE OF PARTNER IN PRIVACY: NORDIC NETWORK



Bjørn Erik Thon, Commissioner for the Norwegian DPA has provided a profile on behalf of the Nordic Network.

Bjørn has been the commissioner for six years. He completed his education as a lawyer from University of Oslo in 1989. He was the Consumer Ombudsman for ten years and was involved in politics for many years on local and national levels. He was a deputy leader of the Liberal Party in Oslo and political adviser for the Minister of Justice. In all these positions he was involved in data protection issues.

Nordic Network

The Nordic countries (Norway, Sweden, Finland, Denmark, Iceland, Åland and The Faroe Islands) have a long history of cooperation. Normally we meet once a year, but due to the GDPR we will meet more often in the next couple of years. The last meeting took place in Iceland in May, we will have a GDPR meeting in Iceland in December, and the next full scale Nordic meeting will be in Norway in spring 2017. The choice of venue is based on a system of rotation among the Nordic countries.

Role and objectives

Meetings start with information sharing, normally a roundtable where each country presents highlights from the last year. The annual Nordic meeting actually consists of three separate parts - one for commissioners, one for case handlers and one for technicians. In addition, we have a plenary session.

The case handlers and technicians discuss concrete cases, subjects of common interest, new technology, recent legal achievements and common challenges. At the last meeting, we discussed issues like data protection in labour life, use of the cloud in the

public sector and camera surveillance. The commissioners' meeting discusses issues of a more strategic nature. Among the topics at the last meeting we can mention:

- Cooperation related to the implementation of the GDPR
- The DPA's financial status and independence
- Common inspections
- Cooperation and coordination at international conferences
- Common projects, the strategy for the Nordic cooperation etc.

Achievements

For the last couple of years we have been carrying out common inspections. The aim is to develop a methodology to be used in inspections carried out by more than one DPA. In addition, we're all committed to work closely together to implement the GDPR, which is of great importance to us all.

Current focus

The next years will of course be dominated by the implementation of the GDPR. For this reason, we will have a meeting in Iceland in December to further develop our cooperation.

Member contact details

www.datatilsynet.dk
www.datatilsynet.no
www.datainspektionen.se
<http://www.tietosuoja.fi/>
<http://www.personuvernd.is/>
<http://www.di.ax/>
<http://dat.fo/>

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MEMBER PUBLICATION: TRACKING IN PUBLIC SPACES

The Norwegian Data Protection Authority has published a report on the use of tracking technologies in public spaces. Tracking can have adverse consequences for the right to privacy and may in some cases even be unlawful. The report is available at

<https://www.datatilsynet.no/English/Publications/tracking-in-public-spaces/>.



EVENTS CALENDAR

Notable events in October:

- 17-20 October: [38th International Conference](#), Marrakesh.
- 21 October: APEC ECSG workshop on readiness for cross border privacy rules system, Danang.
- 23-27 October: ISO SC27 WG5 meeting, Abu Dhabi.

Information on these and other events is available on the [events calendar](#) page on the ICDPPC website.



OBITUARIES

Dr Reinhold Baumann (1924–2016), former German Data Protection Commissioner

Dr Reinhold Baumann was the second Federal Privacy Commissioner (1983–88) for West Germany. Dr Baumann was appointed during a period of controversy over census legislation. During his tenure the federal Constitutional Court decided an important case that established the influential “right to informational self-determination” (*informationelle selbstbestimmung*). An obituary can be found [here](#).

Georg Apenes (1940–2016), former Norwegian Data Protection Commissioner

Georg Apenes was Norway’s Data protection Commissioner from 1989 to 2010 after a career as a lawyer, judge and member of Parliament for Østfold. He was also a regular commentator in Norwegian newspapers and the author of several books. In 2010 Georg Apenes was appointed a Knight 1st Class of the Royal Norwegian Order of Saint Olav. An obituary can be found [here](#).



COMINGS AND GOINGS



Aleid Wolfsen is the new Chairman of the Dutch DPA.

The 38th International Conference meets in Marrakesh, Morocco on 17–20 October 2016

ICDPPC

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**GROWTH IN CONFERENCE SIZE:
SOME SELECTED FACTOIDS**

The ICDPPC website [history page](#) explains that the Conference began in 1979. While reliable or comprehensive records have not yet been found for the early decades of the Conference, it is known that during the 1970s and 80s participation was principally by authorities from Western Europe and OECD countries such as Australia, Canada and New Zealand.

So how did get to where it is now?



The Conference enjoyed steady growth throughout its life following adoption of OECD and Council of Europe instruments in 1980/81. The Conference also faced several 'growth spurts'. These included, for example, the establishment of authorities through adoption of regional instruments in Europe and West Africa. Adoption of data protection law was also seen as an appropriate human rights step to take as countries in Asia, Europe and Latin America emerged from repressive regimes. New DPAs followed from creation of the European market and enlargement of the EU.

The Conference still only has members within just over 60 countries: less than a third of the UN's 193 member states. Only 3 or 4 (depending how you count such things) of the world's 20 most populous countries have authorities accredited to the Conference. That number may be boosted by 1 in this year's new members.

Further substantial growth should be anticipated. And hoped and planned for.

The growth has also happened because there are multiple member authorities in some countries. While most of the 62 countries are represented in the conference by a single member, there are 10 countries that have more than one. Indeed the following countries have 5 or more accredited members, about 30% of the size of the Conference:

- Switzerland: 5 
- Canada: 12 
- Germany: 14 

Those multiple members are a result of federal systems where authorities have jurisdiction in certain geographical areas and sectors.

A sectoral approach also features in some countries with different authorities given jurisdiction over, say, the public and private sectors or within those sectors. This already crops up in the Conference membership but might be expected to be encountered more frequently as countries around the world with a diversity of regulatory approaches adopt privacy law.

**CLOSED SESSION DISCUSSION ON
ENCRYPTION**

We are pleased to announce that Amie Stepanovic will participate in the encryption session to replace Latha Reddy, who has unfortunately had to withdraw.



Amie is the U.S. Policy Manager at AccessNow and works to ensure that laws and policies on surveillance and cybersecurity recognise and respect human rights. Previously, Amie was the Director of the Domestic Surveillance Project at the Electronic Privacy Information Center. Amie is a board member of the Internet Education Foundation and is the Committee on Individual Rights and Responsibilities' Liaison to the American Bar Association's Cybersecurity Working Group. Amie was named as a Privacy Ambassador by the Information and Privacy Commissioner of Ontario, Canada and was recognised in 2014 as one of Forbes magazine's 30 under 30 leaders in Law and Policy.