

APPLICATION TO BE ACCREDITED AS A MEMBER OF THE INTERNATIONAL CONFERENCE OF DATA PROTECTION OF PRIVACY COMMISSIONERS

To: The ICDPPC Executive Committee

The following authority applies to be accredited as a member of the Conference pursuant to the Conference Rules and Procedures (a copy of which is available at <http://icdppc.org/document-archive/rules-procedures/>)

Notes:

- (a) Please complete application in English.
- (b) Please keep answers brief and to the point.
- (c) Please ensure that all 32 questions are answered
- (d) If you retype the form, please include the numbered questions with your answers

DETAILS OF APPLICANT

1. Name and postal address of Authority

Commission nationale de l'informatique et des libertés (CNIL)

01 BP 04837 Cotonou

République du Bénin

2. Contact person for this application:

- a) Name

[REDACTED]

Chair of the CNIL

- b) Email address

[REDACTED]

c) Direct telephone number

DESCRIPTION OF APPLICANT

3. Description of Authority (e.g. commissioner, commission, board etc.)

Commission composed of 11 members

4. Is the Authority a public body?

YES /

No ☐

5. Geographical jurisdiction

National territory of the Republic of Benin

6. Material jurisdiction (i.e. public/private sector, financial matters only...)

Law applicable to the public and private sector

7. Has the Authority the supervision of the implementation of data protection or privacy related legislation as one of its principal regulatory mandates?

YES / No ☐

LEGAL BASIS

8. Title of law under which the Authority is constituted

Law n°2009-09 governing the protection of personal data of May 22, 2009

9. Is this a data protection or privacy related law? **YES/** No ☐

10. Status of the law (e.g. statute, regulation, executive order)

Written Law

11. Which body made the law?

The National Assembly

12. What body has the power to amend or revoke the law?

The National Assembly

CONSISTENCY WITH INTERNATIONAL INSTRUMENTS

13. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?

YES / No ☐

If "yes", which of the following does it principally implement?

- a) OECD Guidelines (1980) ☐
- b) Council of Europe Convention No 108 (1981) ☐
Council of Europe Additional Protocol (2001) ☐
- c) UN Guidelines (1990) ☐
- d) EU Directive (1995) ☐
- e) APEC Privacy Framework (2005) ☐
- f) International Standards on Data Protection and Privacy (2010) ☒
- g) Economic Community of West African States (1975) ☒

14. Does the law instead, or additionally, implement any general or specific international instrument? (If so, list the international body and the instrument)

Supplementary Act A/SA.1/01/10 on personal data protection within ECOWAS

15. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 14 and 15? (Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

Ongoing work at a regional level on the level of implementation of the Supplementary Act within Ecowas and at an international level on the ratification of the Convention
108

Work on a framework for personal data transfers within the AFAPDP

APPROPRIATE FUNCTIONS

16. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

- a) compliance (e.g. audit, inspection) YES/ No ☐

Details: See Articles 21-b, 35, 37 and 39 of the law.

- b) approvals (i.e. prior-checking, notification) YES/ No ☐

Details: See Articles 21-b, 32, and 41 to 46 (preliminary formalities).

- c) redress for individuals (i.e. complaints, conciliation enforcement) YES/ No ☐

Details: See Articles 21-c and 34

- d) sanctions available to Authority (i.e. prosecution and enforcement) YES/ No ☐

Details: See Articles 21-d and 54 to 61

- e) guidance (e.g. compliance advice) YES/ No ☐

Details: See Articles 21, 32 and 38.

f) public education YES/ No ☐

Details: See Articles 21 and 38.

g) policy advice for government YES/ No ☐

Details: See Article 21-f

h) studies or research (i.e. on developing technologies, privacy issues) YES/No ☐

Details: See Article 21-e

AUTONOMY AND INDEPENDENCE

17. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

Among the members of the Commission:

- 3 are deputies appointed by the National Assembly (respecting a political balance)
- 1 is a member of the Economic and Social Council and is elected by his peers
- 2 are qualified personalities and appointed by the National Assembly
- 1 is a qualified personality and is appointed by the President of the Republic during a session of the Council of Ministers
- 2 are magistrates and are appointed by the Supreme Court (elected by their peers)
- 1 is a member of the Chamber of audit of the Supreme Court (Chambre des comptes de la Cour Suprême) and is elected by his peers

- 1 is a lawyer appointed by his peers

The Chairperson of the Commission is elected by his peers, as well as the 2 others members of the "Board" (Vice-president, Secretary and President).

The functions of the Board are described in details in the Rules of procedures.

18. What process is followed?

Election or appointment by their institution or peers, then adoption of a decree by the Council of Ministers

See Articles 23 and 24

19. For what term are appointments made?

5 years, renewable once

See Article 25

20. Does the law under which the Authority operates explicitly state that it acts independently? YES/No ☐

See Article 20

"The CNIL is an independent administrative authority".

The CNIL shall act "without receiving instructions from administrative or political bodies"

21. May the member(s) be removed before expiry of their term? YES/ No ☐

22. If yes, who may remove members of the Authority before expiry of their term?

The members of the Commission after an investigation and a vote

See the Rules of procedure

23. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

Yes, in the law (Article 28) and *the rules of procedure adopted by the Commission (Chapter 4, article 3, sections 42 to 44)*

24. What are the grounds for removal?

"The members of the Commission shall be irremovable for the duration of their mandate"

Removal in case of serious misconduct or deprivation from the title for which the member has been elected or appointed

See Article 28 of the law and *sections 42 to 44 of the rules of procedure*

25. Does the Authority possess the following powers (briefly describe and give statutory references)

- a) to initiate an investigation with seeking provision

YES / No ☐

Details: See Articles 35, 37 and 47

*Investigatory and audit mission

*receive useful information

*on-site inspection

- b) to report to the head of State, head of Government or legislature

YES / No ☐

Details: See Articles 21-d, 34 and 62

- c) make public statements

YES / No ☐

Details: See Article 38

26. Is the Authority (and its staff) legally protected against suits for actions performed in the course of their duties?

N/A

27. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's autonomy and independence (i.e., if the law provides specifically that the Authority's finances are protected).

Article 31 provides that an annual budget shall be allocated to the Commission to the extent necessary for its proper functioning

ADDITIONAL COMMENTS

28. Applicants are invited to offer any further comments that they wish.

Context: the law on personal data protection was adopted in 2009 in Benin to support the development of computerization and the use of information technology by central public authorities. The law was inspired by international and European standards of data protection. The law also follows the principles of the community law adopted by the member states of the ECOWAS (including Benin) adopted in 2010. Since its implementation, the CNIL is a member of the Francophone Association of DPA, which is so far the main network of cooperation on the African continent. The CNIL wishes to join regional and international networks particularly to improve the level of data protection in Benin.

OTHER MATERIALS

29. List any attachments which will accompany the application as an electronic attachment or to follow by post.

- National law on personal data protection (non official translation in English)

- Rules of procedure of the Commission (non official translation in English)

30. If law under which the Authority operates is accessible on the Internet, please give the reference (URL)

Official website: www.cnilbenin.bj

[Law in English](#)

[Law in French](#)

[Rules of procedure in French](#)

31. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

There is no public report available on the website.

RESEARCH USE

32. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:

- I agree to this application being released to a researcher **YES/** No ☐

MAKING THE APPLICATION

The application should be emailed to the Conference Secretariat at ICDPPCo@privacy.org.nz

If unable to email the application, it should be posted to:

ICDPPC Secretariat
C/o Office of the Privacy Commissioner
PO Box 10-094, The Terrace, Wellington 6143
New Zealand

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 30. If the law itself is not in English, it will be useful to supply an English summary or translation if one exists.

USE AND DISCLOSURE OF INFORMATION

Personal information in this form is held by the ICDPPC Secretariat and is subject to the New Zealand Privacy Act 1993. Individuals concerned have rights of access to, and correction of, any personal information held by the Secretariat. The information will be shared with the Executive Committee and their staff and passed to future Committees and Secretariats. It may be also disclosed to the members of the Conference and approved researchers.

**APPLICATION OF GEORGIAN DPA TO BE ACCREDITED AS A MEMBER OF THE
INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS**

To: The ICDPPC Executive Committee

The following authority applies to be accredited as a member of the Conference pursuant to the Conference Rules and Procedures (a copy of which is available at <http://icdppc.org/document-archive/rules-procedures/>)

Notes:

- (a) Please complete application in English.
- (b) Please keep answers brief and to the point.
- (c) Please ensure that all 32 questions are answered
- (d) If you retype the form, please include the numbered questions with your answers

DETAILS OF APPLICANT

1. Name and postal address of Authority

The Office of the Personal Data Protection Inspector of Georgia
7, N.Vachnadze str., 0105, Tbilisi, Georgia

2. Contact person for this application:

- a) Name

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- b) Email address

c) Direct telephone number

DESCRIPTION OF APPLICANT

3. Description of Authority (e.g. commissioner, commission, board etc.)

The Office of the Personal Data Protection Inspector

4. Is the Authority a public body?

Yes / No ☐

5. Geographical jurisdiction

Geographical jurisdiction of the Authority comprises territory of Georgia and activities of the data controllers who are not registered in Georgia but use the technical means of data processing located in Georgia.

6. Material jurisdiction (i.e. public/private sector, financial matters only...)

Material Jurisdiction of the Authority covers public and private sectors, including data processing by the law-enforcement authorities for crime investigation/prevention/surveillance purposes.

7. Has the Authority the supervision of the implementation of data protection or privacy related legislation as one of its principal regulatory mandates?

Yes / No ☐

LEGAL BASIS

8. Title of law under which the Authority is constituted

Law of Georgia on Personal Data Protection; 28.12.2011 (PDP Law)

9. Is this a data protection or privacy related law?

Yes / No ☐

10. Status of the law (e.g. statute, regulation, executive order)

The Law of Georgia

11. Which body made the law?

The Parliament of Georgia

12. What body has the power to amend or revoke the law?

The Parliament of Georgia

CONSISTENCY WITH INTERNATIONAL INSTRUMENTS

13. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?

Yes / No ☐

If "yes", which of the following does it principally implement?

- a) OECD Guidelines (1980)

☐

- b) Council of Europe Convention No 108 (1981) ☒
- Council of Europe Additional Protocol (2001) ☒
- c) UN Guidelines (1990) ☐
- d) EU Directive (1995) ☒
- e) APEC Privacy Framework (2005) ☐
- f) International Standards on Data Protection and Privacy (2010) ☐
- g) Economic Community of West African States (1975) ☐

14. Does the law instead, or additionally, implement any general or specific international instrument? (If so, list the international body and the instrument)

15. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 14 and 15? (Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

Implementation of the European standards of data protection in the Georgian legislation was one of the benchmarks of the EU visa liberalization action plan. The fulfilment of the mentioned action plan was assessed in 2014 and it was considered that Georgia performed its obligations in the field of data protection, in the other words the Georgian legislation is considered to be in line with the European standards of data protection (Second Progress Report on the implementation by Georgia of the Action Plan on Visa Liberalization, Commission to the European parliament and the Council; 29.10.2014; Brussels; 2.3. Block 3).

APPROPRIATE FUNCTIONS

16. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

a) compliance (e.g. audit, inspection)

Yes/ No

☐

Details: The Authority has the power to study the lawfulness of data processing by public and private organisations, to check the compliance with legal requirements and obligations and to conduct investigations (inspections) in this respect. The Inspection can be conducted *ex officio* and also based on the data subjects' complaint. The Authority has power to request any documentation related to the data processing, including the state secret information. The Authority also has the power to monitor the data processing on spot, to conduct interviews and security checks. (PDP Law, Article 35); this means that Inspector and its staff authorized to inspect the data controller/data processor are empowered to visit the place where the data is processed, monitor the process, get familiar with any related documentation and access any technical means to ensure that the data is processed in line with the requirements of the legislation. According to the statistical data, in 2013 2 inspections of 14 data controllers were held; in 2014 were conducted 15 inspections; and in 2015 – 21 inspections already took place. Such data controllers as Ministry of Internal Affairs, Public Service Development Agency (former Civil Registry); several pharmacies and schools were inspected.

b) approvals (i.e. prior-checking, notification)

Yes/ No

☐

Details: Georgian legislation on the personal data protection obliges data controllers/data processors to provide certain information to the Inspector before processing of the personal data and also notify the data protection authority after the data is processed. The general rule is that any data controller/processor has legal obligation to notify the Inspector before

creation of a filing system and entry of a new category of data to it (PDP Law, Article 20, Paragraph 1).

The Inspector shall be also notified on the conducting of the covert investigational activities held by the law enforcement bodies, the decision of court on conducting of such activities shall be sent to the Inspector (PDP Law, Article 20, Paragraph 2). Besides, the Inspector monitors the legitimacy of the covert investigational activities - telephone bugging and recording - conducted by the Ministry of the Internal Affairs of Georgia, through the two stage electronic system, by giving the prior consent before the conducting mentioned investigational activities (PDP Law, Article 35, Paragraph 1).

The electronic communication companies are also obliged to notify the Personal Data Protection Inspector in case of the transmission of the identification data of electronic communication to the law enforcement bodies (PDP Law, Article 20, Paragraph 4).

The private companies have obligation to provide information to the Inspector, before processing of the biometric data on the purpose of the processing and security measures (PDP Law, Article 10).

c) redress for individuals (i.e. complaints, conciliation enforcement) Yes/ No ☐

Details: One of the main functions of the Office of the Inspector is reviewing the data subjects' complaints. The Office shall examine and investigate the circumstances related to the application, and decide to use measures envisaged by the law.

The inspection may be conducted on the basis of the citizens' complaints, if the Inspector decides that it is necessary to examine the case completely. If it turns out that the data is not processed in accordance with the law requirements the Inspector is authorized to demand to eliminate the shortcomings, block the processing, to terminate data processing, to erase, correct or edit data and etc. In case of the determination of the

administrative offence the Inspector is able to impose fine on the data controller/data processor (PDP Law, Article 34, 39). According to the statistics in 2013 only one citizen applied to the Office of the Inspector, in 2014 there were 19 complaints and in 2015 there are already 27 complaints.

d) sanctions available to Authority (i.e. prosecution and enforcement) Yes/ No ☐

Details: The Authority has the power to impose administrative liability on the data controllers/data processors. The PDP Law provides for the particular administrative violations (Chapter VII) that entail financial sanctions-fines.

The Authority also has a mandate to require elimination of the discrepancies revealed in the course of inspection, blocking or deletion of data and temporary or permanent termination of the data processing (PDP Law, Article 39). On the basis of the inspections 11 data controllers from public and private sector were fined, 3 organizations were fined in 2014 and 8 in 2015 (including Ministry of the Internal Affairs, Prosecutor's Office, several pharmacies and etc.).

e) guidance (e.g. compliance advice) Yes/ No ☐

Details: One of the important functions of the Office of the Inspector, envisage by PDP Law, is to provide consultations on the data protection related issues to the data controllers/processors and data subjects as well (PDP Law, Article 27, Paragraph 1 (a)). The consultations are provided in written as well as in verbal form. If data controllers/processors and citizens have questions and concerns related to the data protection they apply to the Office and have ability to receive consultations on the data processing, on the related procedures and their rights and obligations in the field. The consultations are provided by phone, social networks and other forms of electronic communication, as well as through meetings which might continue for several hours, if the person/organization is interested in the

detailed information. The Office of the Inspector provided 44 consultations in 2013, 924 consultation in 2014 and 468 consultations in 2015.

f) public education

Yes/ No

☐

Details: Public awareness rising is one of the main directions of the activities of the Office. The Inspector's Office provides trainings for data controllers/processors and holds other awareness raising campaigns to educate general public in the issues of the data protection. 76 trainings for the 2259 representatives of the public and private data controllers/data processors were held. The Office of the Inspector closely cooperates with the various training centres, like Training Centre of Justice, Academy of the Ministry of Internal Affairs, Training Centre of the Ministry of the Foreign Affairs and etc. Besides the Office of the Inspector regularly conducts public lectures for the students of the different universities and informational meetings with the different target groups (doctors, HR managers and etc.). Videos and recommendations for citizens providing information how to protect their data are disseminated through the web-page of the Office and social networks. The wide range of information is available on the web-page of the Inspector's Office. There are separate blocks for the private organizations, public agencies and individuals (www.pdp.ge; www.personaldata.ge).

g) policy advice for government

Yes/ No

☐

Details: The Inspector is authorized to submit proposals to the Parliament of Georgia and other public institutions intended to improve data protection legislation in Georgia. The Inspector was actively involved in all law making procedures which were related to the data protection. For example in 2014 amendments to the PDP Law and other related legal acts were adopted by the parliament, the Office of the Inspector was actively involved in process of the drafting of the amendments, as well as in the law making process in the Parliament. The Office of the Inspector is obliged to publish annual report on

the state of the data protection in the country. In all reports which were published the recommendations to the Parliament and the Government on the issues related to the data protection, including the recommendations on the eliminations of the gaps of the legislation in the area were provided.

h) studies or research (i.e. on developing technologies, privacy issues) Yes/No ☐

Details: The office of the Personal Data Protection Inspector of Georgia is actively working on researches, recommendations and thematic guidelines related to the data protection issues. The aim of the activities are to establish correct and uniform practice in the country, to interpret the provisions of law in accordance with the international standards and practice of the international courts. Guidelines on the data processing for the purposes of the direct marketing, processing of biometric data, video surveillance, and data processing in the labour relations are already published.

AUTONOMY AND INDEPENDENCE

17. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

Parliament of Georgia

18. What process is followed?

The procedure of the election of the Inspector is prescribed by the Georgian law on the Personal Data Protection which provides the three stage selection process. At the first stage the competition commission for selection of the Inspector is established. The Commission is composed of the representatives of the different governmental and non-governmental organizations. It selects minimum two and maximum five candidates for the position of the Inspector and presents them to the Prime Minister of Georgia. At the second stage the

Prime Minister presents two candidates from the proposed persons to the Parliament of Georgia. And at the end of the process the Parliament elects the Inspector by the majority of the votes at the session of the Parliament.

19. For what term are appointments made?

The Inspector is elected for the three years term. The same person is elected as an Inspector for only two consecutive terms.

20. Does the law under which the Authority operates explicitly state that it acts independently? Yes/No ☐

21. May the member(s) be removed before expiry of their term? Yes/ No ☐

22. If yes, who may remove members of the Authority before expiry of their term?

Parliament of Georgia

23. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

Yes, the grounds for the removal of the Inspector are envisaged in the Georgian Law on Personal Data Protection.

24. What are the grounds for removal?

The grounds for removal of the Inspector are:

1. She/he loses citizenship of Georgia;
2. She/he fails to perform his/her duties for four consecutive months;
3. A valid court judgment of conviction against the Inspector enters into force;
4. The Court recognizes the Inspector as legally incompetent, as missing or declared deceased;
5. The Inspector holds the position incompatible with the status of the Inspector, or is engaged in an activity incompatible with his/her status.

25. Does the Authority possess the following powers (briefly describe and give statutory references)

a) to initiate an investigation with seeking provision

Yes/No

☐

Details: The Inspector is authorized to inspect data controller/data processor on his/her own initiative and/or on the basis of the citizen's complaint. The Georgian Law on the Personal Data Protection, Article 35, Paragraph 1). If in course of the activities, the Inspector finds out the elements of crime she/he is obliged to notify the authorized state body on that fact (The Georgian Law on Personal Data Protection, Article 39, Paragraph 5).

b) to report to the head of State, head of Government or legislature

Yes/ No

☐

Details: The Personal Data Protection Inspector is obliged to submit annually report to the Government of Georgia and the Parliament of Georgia on the state of the personal data protection in the country and the activities held by the Inspector (The Georgian Law on the Personal Data Protection, Article 38 Paragraph 1). In the report Inspector provides information based on the inspections conducted, dealt complaints, consultations issued and etc. The facts of the breaches of the data protection legislation are provided as well as the measures taken to response the violation. Recommendations on the steps which should be taken for the better implementation of the law are also provided in the report.

c) make public statements

Yes / No

☐

Details: Personal Data Protection Inspector has authority to make public statements as well as any other state bodies. The Inspector since appointment made public statements on such issues like processing of the personal data for the purposes of the direct marketing, publishing of the identity of and the crimes committed by the starving inmates, disclosure of the audio recordings by the call centres and etc. The statements of the

Inspector are available on the following link:
<http://personaldata.ge/en/press-centre/statements>;

26. Is the Authority (and its staff) legally protected against suits for actions performed in the course of their duties?

Yes, the Inspector is inviolable. The Law on the Personal Data Protection guarantees the immunities for her. The independence of the Inspector is also underlined in the mentioned law. The Inspector has right to refuse to be testified regarding any fact which is disclosed to her as an Inspector. This right is reserved after the termination of her term. (Georgian Law on the Personal Data Protection, Article 31).

27. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's autonomy and independence (i.e., if the law provides specifically that the Authority's finances are protected).

The Office of the Inspector is funds necessary for the activities of the Inspector and the Office of the Inspector are allocated from the state budget. Before the deciding what amount of the funds will be provided for the Office of the Inspector for the next year, the Ministry of the Finance of Georgia consults with the Inspector and takes into the account the needs of the office, before presenting of the draft budget to the Parliament. Besides, the Inspector is entitled to receive grants and contributions to exercise the rights and fulfil the obligations under the Law.

ADDITIONAL COMMENTS

28. Applicants are invited to offer any further comments that they wish.

OTHER MATERIALS

29. List any attachments which will accompany the application as an electronic attachment or to follow by post.

1. The Georgian Law on the Personal Data Protection (Annex 1);
2. State of Personal Data Protection in Georgia, report of 2014 (Annex 2);
3. State of Personal Data Protection in Georgia, report of 2013 (Annex 3).

30. If law under which the Authority operates is accessible on the Internet, please give the reference (URL)

<http://personaldata.ge>; <http://pdp.ge>;

31. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

<http://personaldata.ge/en/publications/annual-report>

RESEARCH USE

32. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:

- I agree to this application being released to a researcher

Yes/ No ☐

MAKING THE APPLICATION

The application should be emailed to the Conference Secretariat at ICDPPCExCo@privacy.org.nz

If unable to email the application, it should be posted to:

ICDPPC Secretariat
C/o Office of the Privacy Commissioner
PO Box 10-094, The Terrace, Wellington 6143
New Zealand

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 30. If the law itself is not in English, it will be useful to supply an English summary or translation if one exists.

USE AND DISCLOSURE OF INFORMATION

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APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY

Application to the Executive Committee of the International Conference of Data Protection and Privacy Commissioners (the "Conference") for accreditation as a data protection authority pursuant to the Rules and Procedures adopted at the 33rd International Conference of Data Protection and Privacy Commissioners held in Mexico City on October 31, 2011.

Notes:

- (a) Please complete application in English.
- (b) Please keep answers brief and to the point.
- (c) Please ensure that all 33 questions are answered
- (d) If you retype the form, please include the numbered questions with your answers.

DETAILS OF APPLICANT

1. Name and postal address of Authority

Instituto de Transparencia, Acceso a la Información Pública y Protección de Datos Personales del Estado de México y Municipios - INFOEM (Transparency, Public Information Access and Personal Data Protection Institute of Estado de México and municipalities-INFOEM). Zip code 50000.

2. Contact person for this application:

- (a) Name

[Redacted]

(b) Email address

[Redacted]

(c) Direct telephone number

[Redacted]

(d) Fax contact

[Redacted]

DESCRIPTION OF APPLICANT

3. Description of Authority (e.g. commissioner, commission, board etc)

President Commissioner

4. Is the Authority a public body? ☒ Yes

5. Does the Authority belong to an international organisation? ☐ Not.

6. Geographical jurisdiction

Estado de México

7. Material jurisdiction (i.e. public/private sector, financial matters only...)

Personal data protection from public sector

8. Has the Authority the supervision of the implementation of data protection or privacy related legislation as one of its principal regulatory mandates?

☒ Yes

LEGAL BASIS

9. Title of law under which the Authority is constituted

Ley de Transparencia y Acceso a la Información Pública del Estado de México y Municipios –LTAIPEM- /Ley de Protección de Datos Personales del Estado de México –LPDPEM- (Transparency and Public Information Access Law of Estado de México and municipalities –LTAIPEM- / Personal Data Protection Law of Estado de México –LPDPEM-)

10. Is this a data protection or privacy related law?

☒ Yes

11. Status of the law (e.g. statute, regulation, executive order)

Laws of Estado de México (State Law)

12. Which body made the law?

State of Mexico Legislative Assembly Chamber

13. What body has the power to amend or revoke the law?

State of Mexico Legislative Assembly Chamber

CONSISTENCY WITH INTERNATIONAL INSTRUMENTS

14. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?



If "yes", which of the following does it principally implement?

- | | | |
|-----|---|-------------------------------------|
| (a) | OECD Guidelines (1980) | <input checked="" type="checkbox"/> |
| (b) | Council of Europe Convention No 108 (1981) | <input type="checkbox"/> |
| | Council of Europe Additional Protocol (2001) | <input type="checkbox"/> |
| (c) | UN Guidelines (1990) | <input type="checkbox"/> |
| (d) | EU Directive (1995) | <input type="checkbox"/> |
| (e) | APEC Privacy Framework (2004) | <input type="checkbox"/> |
| (f) | International Standards on Data Protection and Privacy (2010) | <input type="checkbox"/> |

15. Does the law instead, or additionally, implement any general or specific international instrument?
(If so, list the international body and the instrument)

Not, international instruments are only used to improve toward better practices.

16. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 14 and 15?
(Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

Yes, actually the personal data protection in our State is recent and the implementation is a challenge.

We need to inspect, that the local law is lined up with the federal law, the international standards and the best practices, to claim for measures needed to improve our legal system.

APPROPRIATE FUNCTIONS

17. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

(a) compliance (e.g. audit, inspection)



Details: Yes, it is named verification.

(b) approvals (i.e. prior-checking, notification)



Details: Yes, about data systems register and security measures.

- (c) redress for individuals (i.e. complaints, conciliation enforcement) ☒

Details: Yes, we count with procedures of investigation and conciliation.

- (d) sanctions available to Authority (i.e. prosecution and enforcement) ☐

Details: Yes, we can impose sanctions in case of infraction.

- (e) guidance (e.g. compliance advice) ☒

Details: Yes, we have functions about guidance, by consult and advice to people and government.

- (f) public education ☒

Details: Yes, but in a non formal way, because the institute gives ongoing training and conferences to people and government, but not at schooling system.

- (g) policy advice for government ☒

Details: Yes, even INFOEM issue politics, rules, guidelines and lineaments.

- (h) studies or research (i.e. on developing technologies, privacy issues) ☒

Details: Yes, but not frequently, INFOEM has organized transparency and personal data protection award in this State.

AUTONOMY AND INDEPENDENCE

18. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

The State of Mexico Legislative Assembly appoints the Commissioners, and Commissioners appoints members of INFOEM.

19. What process is followed?

The Commissioners are nominated by the State governor or a group of citizens selected by the State of Mexico Legislative Assembly Chamber.

20. For what term are appointments made?

5 years.

21. Does the law under which the Authority operates explicitly state that it acts independently?

☒ Yes

22. May the member(s) be removed before expiry of their term?

☒ Yes

23. If yes, who may remove members of the Authority before expiry of their term?

State of Mexico Legislative Assembly Chamber

24. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

Yes, I. Violate the Federal Constitution; II. Responsibility for a crime.

25. What are the grounds for removal?

The Transparency Law mentioned before, article 64.

26. Does the Authority possess the following powers (briefly describe and give statutory references)

- (a) to initiate an investigation with seeking provision ☒

Details: Articles 32 and 66 fraction XV LPDPEM

- (b) to report to the head of State, head of Government or legislature ☐

Details: Article 66 fraction XVIII LPDPEM

- (c) make public statements ☐

Details: Article 66 fraction VIII LPDPEM

27. Is the Authority (and its staff) legally protected against suits for actions performed in the course of their duties?

Only the Commissioners, not the staff.

28. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's autonomy and independence (i.e., if the law provides specifically that the Authority's finances are protected).

INFOEM is a self-governed constitutionally authority.

ADDITIONAL COMMENTS

29. Applicants are invited to offer any further comments that they wish.

We have interest to be accepted at the Conference to participate and improve our practices, as well to have feedback with the countries that integrate the Conference.

OTHER MATERIALS

30. List any attachments which will accompany the application as an electronic attachment or to follow by post.

1. Constitución Política del Estado Libre y Soberano de México - CPELSM- / 2. Ley de Transparencia y Acceso a la Información Pública del Estado de México y Municipios –LTAIPEM- / 3. Ley de Protección de Datos Personales del Estado de México –LPDPEM- / 4. Periódico Oficial del Estado de México "Gaceta del Gobierno" de fecha 15 de marzo de 2013, que contiene la designación como Comisionada (1. Politic Constitution of the Free and Sovereign Estado de México -CPELSM- / 2. Transparency and Public Information Access Law of Estado de México and municipalities –

LTAIPEM- / 3. Personal Data Protection Law of Estado de México
–LPDPEM- / 4. Official Newspaper of Estado de México "Gaceta
del Gobierno", from march 15, 2013, describes an appointment like
Commissioner)

31. If law under which the Authority operates is accessible on the Internet, please give the reference (URL)

<http://www.infoem.org.mx>

The laws under which the Authority is constituted are attached, but we do not have them translated.

32. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

[http:// www.ipomex.org.mx/ipo/portal/infoem/infoActividades.web](http://www.ipomex.org.mx/ipo/portal/infoem/infoActividades.web)

RESEARCH USE

33. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:

- I agree to this application being released to a researcher



MAKING THE APPLICATION

The application should be emailed to Guilherme Roschke at [REDACTED] staff attorney at the FTC and member of the Executive Committee of the International Conference of Data Protection and Privacy Commissioners.

If unable to email the application, it should be posted to:

Guilherme Roschke
Federal Trade Commission
600 Pennsylvania Avenue NW, [REDACTED]
Washington, D.C. 20580
U.S.A.

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 31. If the law itself is not in English, it will be useful to supply an English summary or translation if one exists.

USE AND DISCLOSURE OF INFORMATION

The information in this form will be used for processing the application and will be disclosed to members of the Executive Committee and their staff (being the Commissioners from the Netherlands, Australia, Uruguay, Poland and the United States) and future committees. It may be also disclosed to the Data Protection Authorities which participate in the Conference and approved researchers. The submitter may request access and correction in accordance with any applicable laws, policies and practices of the current and future committees.

APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY



Application to the Executive Committee of the International Conference of Data Protection and Privacy Commissioners (the "Conference") for accreditation as a data protection authority pursuant to Section 5 of the Rules and Procedures adopted at the 33rd International Conference of Data Protection and Privacy Commissioners held in Mexico City on October 31, 2011. The Rules and Procedures are available via the Conference website: www.privacyconference2015.org.

Notes:

- (a) Please complete application in English.
- (b) Please keep answers brief and to the point.
- (c) Please ensure that all 33 questions are answered
- (d) If you retype the form, please include the numbered questions with your answers.

DETAILS OF APPLICANT

1. Name and postal address of Authority

Datenschutzbeauftragter des Kantons Basel-Stadt (Data Protection Commissioner of the Canton of Basel-Stadt), Henric Petri-Strasse 15, Postfach 205, 4010 Basel

2. Contact person for this application:

- (a) Name

(b) Email address

(c) Direct telephone number

(d) Fax contact

DESCRIPTION OF APPLICANT

3. Description of Authority (e.g. commissioner, commission, board etc)

4. Is the Authority a public body? ☒

5. Does the Authority belong to an international organisation? ☐

6. Geographical jurisdiction

7. Material jurisdiction (i.e. public/private sector, financial matters only...)

8. Has the Authority the supervision of the implementation of data protection or privacy related legislation as one of its principal regulatory mandates?



LEGAL BASIS

9. Title of law under which the Authority is constituted

Gesetz vom 9. Juni 2010 über die Information und den Datenschutz (Informations- und Datenschutzgesetz, IDG, SG 153.260) (Law on Information and Data Protection (Information and Data Protection Act, IDPA))

10. Is this a data protection or privacy related law?



11. Status of the law (e.g. statute, regulation, executive order)

Law

12. Which body made the law?

The legislative body, the Parliament (Grosser Rat, Grand Council)

13. What body has the power to amend or revoke the law?

The legislative body, the Parliament (Grosser Rat, Grand Council)

CONSISTENCY WITH INTERNATIONAL INSTRUMENTS

14. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?

☐

If "yes", which of the following does it principally implement?

- | | | |
|-----|---|--------------------------|
| (a) | OECD Guidelines (1980) | <input type="checkbox"/> |
| (b) | Council of Europe Convention No 108 (1981) | <input type="checkbox"/> |
| | Council of Europe Additional Protocol (2001) | <input type="checkbox"/> |
| (c) | UN Guidelines (1990) | <input type="checkbox"/> |
| (d) | EU Directive (1995) | <input type="checkbox"/> |
| (e) | APEC Privacy Framework (2004) | <input type="checkbox"/> |
| (f) | International Standards on Data Protection and Privacy (2010) | <input type="checkbox"/> |

15. Does the law instead, or additionally, implement any general or specific international instrument? (If so, list the international body and the instrument)

Switzerland is Member of the OECD, has signed and ratified the Council of Europe Convention and the additional Protocol, does implement the UN Guidelines AND does implement the EU Directive due to the Schengen Association. Nevertheless, those international instruments are implemented implicitly and not being mentioned especially in a law.

16. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 14 and 15? (Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

No, not yet.

APPROPRIATE FUNCTIONS

17. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

- (a) compliance (e.g. audit, inspection) ☒

Details: Audit, Inspection, para 44 lit. a IDPA

- (b) approvals (i.e. prior-checking, notification) ☒

Details: prior-checking, para 13, 44 lit. b and lit. f IDPA

- (c) redress for individuals (i.e. complaints, conciliation enforcement) ☒

Details: para 44 lit. d IDPA

- (d) sanctions available to Authority (i.e. prosecution and enforcement) ☒

Details: only recommendations and directives, para 46 and 47 IDPA

- (e) guidance (e.g. compliance advice) ☒

Details: para 44 it. c IDPA

- (f) public education ☐

Details:

- (g) policy advice for government



Details: para 44 it. c IDPA

- (h) studies or research (i.e. on developing technologies, privacy issues)



Details: No reference in the IDPA, but done nevertheless by the DPA

AUTONOMY AND INDEPENDENCE

18. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

The data protection supervisor is appointed by the parliament (Grand Council), his/her team by himself/herself.

19. What process is followed?

para 39 (2) IPDA: The Grand Council elects the commissioner at the request of its election board for a fixed period of office of six years. The proposed appointment is to be submitted to the Cantonal Executive Council so that the latter can state its position. It is possible for the commissioner to be re-elected.

20. For what term are appointments made?

6 years

21. Does the law under which the Authority operates explicitly state that it acts independently?



22. May the member(s) be removed before expiry of their term? ☒

23. If yes, who may remove members of the Authority before expiry of their term?

para 39 (4) IDPA: only in the event of a serious breach of official duties or of incompetence, the commissioner may be dismissed before the expiry of his or her period of office. This requires a two thirds majority in the Grand Council.

24. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

See answer to 23.

25. What are the grounds for removal?

See answer to 23.

26. Does the Authority possess the following powers (briefly describe and give statutory references)

- (a) to initiate an investigation with seeking provision ☒

Details: para 45 IDPA: The Data Protection Commissioner, regardless of any secrecy obligations that may exist, may obtain written or oral information about data processing, may inspect all documents, carry out inspections and scrutinise processing that is carried out by a public body or by third persons mandated to

process personal data or that have received personal data from the public body.

- (b) to report to the head of State, head of Government or legislature ☒

Details: Not mentioned in the IDPA, but as every other body, there is the possibility to address the cantonal audit committee or the head of Government

- (c) make public statements ☒

Details: Not mentioned in the IDPA, but neither forbidden and done so

27. Is the Authority (and its staff) legally protected against suits for actions performed in the course of their duties?

§ 3 of the Gesetz vom 17. November 1999 über die Haftung des Staates und seines Personals (Haftungsgesetz, HG, SG 161.100)
(law regarding the liability of the government and its personnel)

Furthermore, the Authority and its staff can rely on the provisions regarding their independence (see questions 18 ff.)

28. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's autonomy and independence (i.e., if the law provides specifically that the Authority's finances are protected).

para 42 IDPA: The supervisory authority will draw up its own budget.

ADDITIONAL COMMENTS

29. Applicants are invited to offer any further comments that they wish.

OTHER MATERIALS

30. List any attachments which will accompany the application as an electronic attachment or to follow by post.

Gesetz vom 9. Juni 2010 über die Information und den Datenschutz
(Informations- und Datenschutzgesetz, IDG) = Law on Information
and Data Protection (Information and Data Protection Act, IDPA) of
9 June 2010

31. If law under which the Authority operates is accessible on the Internet, please give the reference (URL)

<http://www.gesetzessammlung.bs.ch/data/153.260>
(in German, unofficial english translation attached)

32. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

Only german version available:
<http://www.dsb.bs.ch/ueber-uns/Taetigkeitsberichte.html>

RESEARCH USE

33. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:

- I agree to this application being released to a researcher



MAKING THE APPLICATION

The application should be emailed to Guilherme Roschke [REDACTED], staff attorney at the U.S. Federal Trade Commission, a member of the Executive Committee of the International Conference of Data Protection and Privacy Commissioners.

Please note the final deadline to submit your application is **26 July 2015**.

If unable to email the application, it should be posted to:

Guilherme Roschke
Federal Trade Commission
600 Pennsylvania Avenue NW, [REDACTED]
Washington, D.C. 20580
U.S.A.

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 31. If the law itself is not in English, it will be useful to supply an English summary or translation if one exists.

USE AND DISCLOSURE OF INFORMATION

The information in this form will be used for processing the application and will be disclosed to members of the Executive Committee and their staff (being the Commissioners from New Zealand, the United States, France, Mauritius and the Netherlands) and future committees. It may be also disclosed to the Data Protection Authorities which participate in the Conference and approved

researchers. The submitter may request access and correction in accordance with any applicable laws, policies and practices of the current and future committees.

APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY



Application to the Executive Committee of the International Conference of Data Protection and Privacy Commissioners (the "Conference") for accreditation as a data protection authority pursuant to Section 5 of the Rules and Procedures adopted at the 33rd International Conference of Data Protection and Privacy Commissioners held in Mexico City on October 31, 2011. The Rules and Procedures are available via the Conference website: www.privacyconference2015.org.

Notes:

- (a) Please complete application in English.
- (b) Please keep answers brief and to the point.
- (c) Please ensure that all 33 questions are answered
- (d) If you retype the form, please include the numbered questions with your answers.

DETAILS OF APPLICANT

1. Name and postal address of Authority

Ukrainian Parliament Commissioner for Human Rights
Instytutska street, 21/8, Kyiv, 01008, Ukraine

2. Contact person for this application:

- (a) Name

[Redacted Name]

(b) Email address

(c) Direct telephone number

(d) Fax contact

DESCRIPTION OF APPLICANT

3. Description of Authority (e.g. commissioner, commission, board etc)

Parliament Commissioner for Human Rights

4. Is the Authority a public body? ☒

5. Does the Authority belong to an international organisation? ☐

6. Geographical jurisdiction

Ukraine

7. Material jurisdiction (i.e. public/private sector, financial matters only...)

The scope of material jurisdiction extends to relations emerging from the fulfillment of human and citizens' rights and freedoms (including those that arise between legal entities of public and private law)

8. Has the Authority the supervision of the implementation of data protection or privacy related legislation as one of its principal regulatory mandates?



LEGAL BASIS

9. Title of law under which the Authority is constituted

Ukrainian Parliament Commissioner for Human Rights as an authority is constituted under the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights", but authorities of the Ukrainian Parliament Commissioner for Human Rights in the sphere of protection of personal data are stipulated by the Law of Ukraine "On Personal Data Protection".

10. Is this a data protection or privacy related law?



11. Status of the law (e.g. statute, regulation, executive order)

statute

12. Which body made the law?

Verkhovna Rada of Ukraine (Ukrainian Parliament)

13. What body has the power to amend or revoke the law?

Verkhovna Rada of Ukraine, Constitutional Court of Ukraine

CONSISTENCY WITH INTERNATIONAL INSTRUMENTS

14. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?



If "yes", which of the following does it principally implement?

- | | | |
|-----|--|-------------------------------------|
| (a) | OECD Guidelines (1980) | <input type="checkbox"/> |
| (b) | Council of Europe Convention No 108 (1981) | <input checked="" type="checkbox"/> |
| | Council of Europe Additional Protocol (2001) | <input checked="" type="checkbox"/> |
| (c) | UN Guidelines (1990) | <input type="checkbox"/> |
| (d) | EU Directive (1995) | <input type="checkbox"/> |

(e) APEC Privacy Framework (2004) ☐

(f) International Standards on Data Protection and Privacy (2010) ☐

15. Does the law instead, or additionally, implement any general or specific international instrument?
(If so, list the international body and the instrument)

no

16. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 14 and 15?
(Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

According to the first wording of the Law of Ukraine "On Personal Data Protection" authorized state body on matters of personal data protection was State Service of Ukraine on Personal Data Protection that was subordinated to the Ministry of Justice of Ukraine. This did not complied with the requirements of Article 1 of the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows.

On 1 January 2014 the Law of Ukraine "On amendments to certain legislative acts of Ukraine concerning the improvement of the protection of personal data", which amends the Law of Ukraine "On Personal Data Protection", came into force.

According to these amendments the function of control over observance of the legislation on protection of personal data is assigned to the Ukrainian Parliament Commissioner for Human

Rights. This measure complies with requirements of international documents concerning the independence of the national supervisory authority that is responsible for ensuring compliance with legislation for the protection of personal data.

APPROPRIATE FUNCTIONS

17. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

(a) compliance (e.g. audit, inspection)



Details: The Commissioner has authority to conduct on-site and off-site, scheduled, unscheduled inspections of processors and controllers of personal data on the grounds of appeals or on own initiative. (item 2 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection")

(b) approvals (i.e. prior-checking, notification)



Details: The controller of personal data shall notify the Commissioner of the processing of personal data, which is of particular risk to the rights and freedoms of personal data subjects within thirty working days after beginning of such a processing. (Article 9 of the Law of Ukraine "On personal Data Protection")

The information about the unit or the responsible person who organizes the work related to personal data protection during their processing is notified to the Commissioner. (Paragraph 2 of Article 24 of the Law of Ukraine "On personal Data Protection")

The Commissioner has authority to provide the conclusions concerning the draft codes of conduct in the sphere of protection of personal data and changes thereto upon requests of professional, self-government and other public associations or legal entities. (item 9 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection")

- (c) redress for individuals (i.e. complaints, conciliation enforcement) ☒

Details: The Commissioner has authority to receive proposals, complaints and other appeals of individuals and legal entities concerning the protection of personal data and make decisions following their consideration. (item 1 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection")

- (d) sanctions available to Authority (i.e. prosecution and enforcement) ☒

Details: On the grounds of results of an inspection, consideration of an appeal the Commissioner has authority to issue binding requests (regulations), as regards the prevention or elimination of violations of the legislation on protection of personal data, including the changes, removal or destruction of personal data, ensuring access to them, providing or prohibiting their provision to third person, suspension or termination of the processing of personal data. (item 5 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection").

The Commissioner has authority to draw up protocols on bringing to administrative responsibility and direct them to the court in cases provided by law (item 10 paragraph 1 Article 23 of the Law of

Ukraine "On personal Data Protection"). The Code of Ukraine on Administrative Offences provides administrative responsibility for the violation of legislation on personal data protection and for failure to comply with the legal requirements of the Ukrainian Parliament Commissioner for Human Rights. (Articles 188³⁹ and 188⁴⁰ of the Code)

- (e) guidance (e.g. compliance advice) ☒

Details: The Commissioner has authority to provide recommendations on practical application of the legislation on protection of personal data, to explain the rights and obligations of the relevant persons upon request of subjects of personal data, processors and controllers of personal data, units or persons responsible for the organization of the protection of personal data, other persons. (item 6 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection").

- (f) public education ☐

Details:

- (g) policy advice for government ☒

Details: The Commissioner has authority to submit proposals to the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, other state bodies, bodies of local self-government and their officials as regards the adoption or amendment to normative legal acts on the protection of personal data (item 8 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection").

- (h) studies or research (i.e. on developing technologies, privacy issues) ☒

Details: The Commissioner has authority to carry out the monitoring of new practices, trends and technologies of protection of personal data (item 12 paragraph 1 Article 23 of the Law of Ukraine "On personal Data Protection").

AUTONOMY AND INDEPENDENCE

18. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

The Commissioner shall be appointed to his or her post and shall be dismissed from his or her post by the Verkhovna Rada of Ukraine by a secret ballot vote.

19. What process is followed?

The candidate shall not be deemed appointed until he or she receives the majority of votes from People's Deputies of Ukraine making up the constitutional composition of the Verkhovna Rada of Ukraine, with the resolution adopted thereof. The authority of the Commissioner shall be effective from the moment of taking oath.

20. For what term are appointments made?

The Commissioner shall be appointed for the term of five years. The authority of the Commissioner shall not be terminated or limited in case of expiration of term of the authority of the Verkhovna Rada of Ukraine or its dissolution (self-dissolution),

declaration of martial law or the state of emergency in Ukraine or in its certain areas.

21. Does the law under which the Authority operates explicitly state that it acts independently?



22. May the member(s) be removed before expiry of their term? ☒

23. If yes, who may remove members of the Authority before expiry of their term?

The Verkhovna Rada of Ukraine shall adopt the resolution on dismissal from the post of the Commissioner before the expiration of term to which he or she has been elected. The Temporary Special Commission of the Verkhovna Rada of Ukraine shall conclude whether there are grounds to dismiss the Commissioner from the post.

24. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

Yes

25. What are the grounds for removal?

1) violation of the oath;
2) incompliance with the requirements of incompatibility of the post of the Commissioner;

3) termination of citizenship of Ukraine;

4) inability to perform duties for more than four months in a row due to unsatisfactory health conditions or inability to work.

26. Does the Authority possess the following powers (briefly describe and give statutory references)

(a) to initiate an investigation with seeking provision

☐

Details:

(b) to report to the head of State, head of Government or legislature

☒

Details: During the first quarter of every year, the Commissioner shall present to the Verkhovna Rada of Ukraine an Annual report on the situation with the observance and protection of human and citizens' rights and freedoms in Ukraine that includes the report on the state of observance of legislation on personal data protection.

If necessary the Commissioner shall present to the Verkhovna Rada of Ukraine a Special report (reports) on separate issues regarding the observance of human and citizens' rights and freedoms in Ukraine. (Article 18 of the Law of Ukraine "On Ukrainian Parliament Commissioner for Human Rights")

(c) make public statements

☐

Details: As one of the purposes of the parliamentary control exercised by the Commissioner is to promote legal awareness of the population (item 7 paragraph 1 Article 3 of the Law of Ukraine "On Ukrainian Parliament Commissioner for Human Rights"), the

Commissioner makes public statements very often, but there is no specific provision in the Law.

27. Is the Authority (and its staff) legally protected against suits for actions performed in the course of their duties?

Interference from bodies of state power, bodies of local self-government, associations of citizens, enterprises, institutions, organizations, irrespective of their forms of ownership, their officials and officers into the activity of the Commissioner shall be prohibited.

The Commissioner is not obligated to provide explanations on details of cases which are being considered or have been closed by the Commissioner.

The Commissioner shall enjoy the rights to immunity during the entire period of tenure. He or she cannot be held criminally liable without consent of the Verkhovna Rada of Ukraine or be subject to administrative punishment imposed by judicial procedure, be detained, arrested, searched as well as be subject to personal examination. (Article 20 of the Law of Ukraine "On Ukrainian Parliament Commissioner for Human Rights")

28. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's autonomy and independence (i.e., if the law provides specifically that the Authority's finances are protected).

--

ADDITIONAL COMMENTS

29. Applicants are invited to offer any further comments that they wish.

OTHER MATERIALS

30. List any attachments which will accompany the application as an electronic attachment or to follow by post.

Law of Ukraine "On Personal Data Protection"
Law of Ukraine "On Ukrainian Parliament Commissioner for Human Rights"

31. If law under which the Authority operates is accessible on the Internet, please give the reference (URL)

http://

32. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

http://

RESEARCH USE

33. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:

- I agree to this application being released to a researcher



MAKING THE APPLICATION

The application should be emailed to Guilherme Roschke a [REDACTED] staff attorney at the U.S. Federal Trade Commission, a member of the Executive Committee of the International Conference of Data Protection and Privacy Commissioners.

Please note the final deadline to submit your application is **26 July 2015**.

If unable to email the application, it should be posted to:

Guilherme Roschke
Federal Trade Commission
600 Pennsylvania Avenue NW, [REDACTED]
Washington, D.C. 20580
U.S.A.

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 31. If the law itself is not in English, it will be useful to supply an English summary or translation if one exists.

USE AND DISCLOSURE OF INFORMATION

The information in this form will be used for processing the application and will be disclosed to members of the Executive Committee and their staff (being the Commissioners from New Zealand, the United States, France, Mauritius and the Netherlands) and future committees. It may be also disclosed to the Data Protection Authorities which participate in the Conference and approved researchers. The submitter may

request access and correction in accordance with any applicable laws, policies and practices of the current and future committees.