

# COMMUNIQUE

MAY 2016

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**MESSAGE FROM THE CHAIR**

“... truth, whose mother is history, who is the rival of time, depository of deeds, witness of the past, example and lesson to the present, and warning to the future.” — Miguel de Cervantes Saavedra, Don Quixote

400 years ago last month – 23 April, 1616, to be specific – both Miguel Cervantes and William Shakespeare passed away. The work of the two men made me consider who the Conference is and what it does. Are we quixotic, tilting at windmills in the name of foolish romantic ideals? Or are we Shakespearean, following a story with ups and downs that ends with a tidy conclusion? Sadly, real life is harder to thematically characterise than fiction, and I expect that the true answer lies somewhere in the middle.

Over the past few months, the Executive Committee has been consulting with members and meeting on a regular basis to select potential topics for the closed session at the Conference later this year. This has been a productive exercise, with strong interest developing in areas such as robotics, artificial intelligence and nanotechnology.

Last week, the Executive Committee confirmed the topics for the closed session: robotics, artificial intelligence and encryption. For the encryption topic, we are planning on a 90 minute discussion.



The value of the closed session is that we can have a candid and frank discussion about our role as DPAs in relation to these important emerging issues. We are in the process of inviting eminent speakers and hope to be in a position to confirm the programme after our next meeting in July.

Speaking of the Conference, I announced in March that Hong Kong has been selected as the host city for the 39<sup>th</sup> Conference. We do not yet have a host city for the 40<sup>th</sup> Conference, and it's time to start planning. We plan on selecting a host city by the end of this year, with a formal host proposal process between now and then. So watch this space for updates.

Finally, the UN Special Rapporteur on the right to privacy, Prof Joe Cannataci visited New Zealand and Australia for Privacy Week. While Prof Cannataci's visit was not an official information-gathering exercise, he was able to give a very helpful international context in various meetings and presentations. He plays a valuable role in developing the ongoing international privacy conversation. We look forward to welcoming him to update the Conference on his mandate in Marrakesh.

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

## EXECUTIVE COMMITTEE: HIGHLIGHTS OF MAY MEETING

*"Brevity is the soul of wit" - Hamlet*

The Executive Committee met on 4/5 May 2016 by teleconference. Highlights included:

- The Committee received a report from a sub-committee to help shape the in-depth discussion session planned for the October Conference. The Committee agreed on an approach to further refine the draft outline before the next Committee meeting.
- The Committee discussed the host's plans for the 38<sup>th</sup> Conference open session.
- The Committee agreed to initiate a process later in the year to invite proposals to host the 40<sup>th</sup> Conference with selection and confirmation completed by the end of 2016.
- The Committee discussed the importance of a smooth transition between successive committees and hosts. Soundings were taken for availability to serve in 2017, if re-selected, and a simple plan was agreed to develop a host handover checklist.

## ON THIS DAY IN PRIVACY HISTORY

*"What's past is prologue" - The Tempest*

- On 18 December 2014 the UN General Assembly adopted a resolution on the right to privacy – exactly 47 years to the day after the US Supreme Court recognised the same right existed in phone booths. (If only phone booths still existed there might still be a zone of privacy!)
- On 24 October 1995 the European Union adopted its Data Protection Directive, the 50th anniversary of the ratification of the UN Charter.
- On a sadder note, two influential privacy authors died on 18 February; Samuel Warren in 1910 and Alan Westin a century later in 2013.

The Secretariat has created a rudimentary "Day in Privacy History" [calendar](#) from which those entries are taken and invites Conference members and observers to contribute to fill the gaps. The Secretariat's hope is to include an event for every day of the year and from every country represented at the Conference.

That should be quite easy with 110 members and fewer than 365 days left to fill.

The notable events commemorated will be featured on the Conference's twitter account (@ICDPPCExCo) and selected events highlighted in the newsletter. Commissioners may find the references useful when seeking inspiration for speaking engagements.

Please email [JCDPPCExCo@privacy.org.nz](mailto:JCDPPCExCo@privacy.org.nz) with suggested dates from your home jurisdiction. We're very keen to broaden the scope to reflect the diversity of our global community. We need a date (include day, month and don't forget the year) and a brief description (it must be brief as it will be converted into a 'tweet').

Be imaginative! If you're really stuck for inspiration feel free to let us have, say, the date your country's first privacy law was enacted or the name and date of appointment of your first data protection commissioner. Events leading to significant privacy court cases may be another option or, more conventionally, the dates of judgment. Special mention for the best entries.



*Hamlet. Decorated by John Austen.  
Selwyn & Blount, 1922.*

**"The Secretariat  
has created a  
rudimentary  
'Day in Privacy  
History'  
calendar "**



*The Tempest. Illustrated by Arthur  
Rackham. Heinemann, 1926.*

## MOROCCO IS OPENING NEW TERRITORIES FOR PRIVACY AND PERSONAL DATA PROTECTION

*"Fortune brings in some boats that are not steer'd"* - Cymbeline



Six months after the ICANN meeting (March 2016) and few weeks ahead of COP22 (November 2016), Marrakesh will once again be the gathering place for the international community. From the 17th until 20th October 2016, privacy and personal data scholars (academics, DPAs, NGOs, corporations, students, etc) will hold their annual meeting in the red city. So if you haven't already, please save the date for this prominent event.

Five months before the target date, preparations and arrangements are speeding up. Indeed, a kick-off meeting has been held with the selected event agency to ensure that the main organisation's milestones are set with efficiency.

The development of the 38th international Conference's website ([www.privacyconference2016.org](http://www.privacyconference2016.org)) has been completed and its content in four languages, Arabic, English, French and Spanish will be accessible online in the coming days.

The start of the registration process, which has been completely automated, is imminent. Within few days, you will receive an invitation email, provided your credentials are in the contact list of accredited members and observers. If not, please contact us at the following email: [contact@privacyconference2016.org](mailto:contact@privacyconference2016.org).

The program of the 38th Conference is taking shape for both the closed and open sessions and many world class speakers have been identified. Also, many partners have already expressed their willingness to organise breakout sessions in the margins of this important event.

As the host aims to seize this edition to open new territories for privacy and personal data protection, one of the main themes is "privacy and personal data protection as a driver for sustainable development".

Finally, please note that some participants may need an entry visa to visit Morocco. It is highly recommended that you make the necessary arrangements as soon as possible. To find out if your country is exempted from visa to enter Morocco, you can visit the website of Moroccan Ministry of Foreign Affairs and Cooperation.

*Lahoussine Aniss, CNDP Morocco*

**"Save the date  
17–20 October  
for the 38th  
Conference  
2016,  
Marrakesh"**



**SHAKESPEARE: CYMBELINE.** Cornelius, the physician, presenting a box of 'most poisonous compounds' to the Queen (Act I, Scene V) in William Shakespeare's 'Cymbeline.' Wood engraving, 1881, after Sir John Gilbert by Granger

## BIOMETRICS IN PASSPORTS, OTHER TRAVEL DOCUMENTS AND ID CARDS

*"Men at some time are masters of their fates. The fault, dear Brutus, is not in our stars, but in ourselves, that we are underlings" - Julius Caesar*

The calls for applications aiming at secure identification and/or verification of persons are increasing significantly throughout the whole social environment. Currently, applications are in use in Germany which are either based on a statutory basis (passports, ID cards and other official travel documents) or the data subjects have expressed their consent for the collection and verification.

In addition, unfortunately, covert collection/use of biometric features is on the rise. This happens through the deliberate circumvention of legal provisions and also due to the ignorance of those persons using an identification system. In many cases, covert procedures are relating to facial recognition systems in which recent photographs are matched with available images from various sources (e.g. Internet). Facial recognition procedures are already able to work with photographs taken by a smart phone. Currently, the Federal Network Agency (BNetzA) is planning to take action against cameras that can covertly take images of persons.

A timely global debate on the secret use of biometric applications including information about the risks is urgently required. In particular, the legal frameworks relating to data retention and to the covert matching of data are often lacking sufficient regulation. In this connection, it is necessary to take into account the fact that biometric procedures can also provide supplementary information. Much further work needs to be done!

### Comments on the resolution on biometrics in passports, other travel documents and ID cards

From my point of view, there is no urgent need for action in Germany. Germany has adopted a Technical Guideline Biometrics for Public Sector Applications governing the handling of biometric data in passports, ID cards and travel documents. The

biometric features for passports/ID Cards are recorded in the registration office according to predetermined standards (fingerprint) and/or photographs are received, temporarily stored, and subsequently sent to the Federal Printing Office for the purpose of issuing the ID card. In the registration office the fingerprints are deleted after the passport/ID-Card has been delivered to the citizen.

After the issuing of the ID card, according to requirements relating to data protection law, the data of the ID card immediately deleted also at the issuing body of the ID-card, which is the Federal Printing Office.

Thus, the biometric reference data is only stored on the ID card. The personal data of the ID card and the photo remain stored in the registration office as a reference.

Access to the fingerprint data of the ID card is only possible by means of card readers certified by the Federal Government. Therefore, the Data Protection Commissioner's demands that collection, processing and storing of data shall be in accordance with data protection law, and in particular the requirement of strict purpose limitation of data, have been sufficiently taken on board. For the German passports and ID Cards it is only allowed to use the stored biometric data for governmental applications.

A request made by industry and other organizations to deviate from the purpose limitation relating to the biometric data in official documents and to allow that the biometric data from ID cards are used for other applications was strongly refused by the Federal Government.

*Heinz Biermann, German Federal Data Protection Commissioner*



*Kurtis Garbutt on Biometrics*

**"A timely global debate on the secret use of biometric applications including information about the risks is urgently required."**



*Internet Shakespeare Editions*

## THE PRIVACY AND HUMANITARIAN ACTION WORKING GROUP

*"Our doubts are traitors, and make us lose the good we oft might win, by fearing to attempt" - Measure for Measure*

Coordinators of the WG (Spain, Switzerland, AFAPDP and RIDP) launched a call for participation to ICDPPC members in December 2015.

They also started to work with international humanitarian actors in particular in the framework of the project "Data Protection in Humanitarian Action" of the Brussels Privacy Hub (BPH) and the International Committee of the Red Cross (ICRC). The objective of the project is to explore "the relationship between data protection laws and humanitarian action," to understand the impacts of the use of technologies on data protection in the humanitarian sector and to "formulate appropriate guidance" to address these impacts.

The BPH and the ICRC initiated the project and associated the WG and two other ICDPPC members: the European Data Protection Supervisor (EDPS) and the Council of Europe. The project consists of a series of 6 thematic workshops organized throughout the year 2016: for example, in February, on big data, and on "humanitarian UAV/drones. Each workshop leads to the writing of recommendations by the participants. At the end, recommendations will be compiled and published in the form of guidelines for humanitarian actors.

Coordinators of the WG are very interested in the work carried out in the framework of this project. It fully meets the spirit of the resolution adopted by the ICDPPC in October 2015 in Amsterdam (analyse data protection and privacy requirements and meet the demand for cooperation in the development of guidance by humanitarian actors). It enables the WG to meet academics and actors on the ground, to better know their activities and their needs regarding data protection and privacy and legal framework. The WG is associated very closely to the preparation of the workshops and the writing of the recommendations. Indeed, the BPH and the ICRC are interested also by the contribution of the members of the WG to their work, by their expertise and by their point of view as DPAs. Their objective is to propose guidelines for the protection of personal data and privacy that is compliant with DPAs' expectations worldwide.



The WG encourage ICDPPC members to participate in the review of the recommendations and future guidelines and to present their point of view at a national and a regional level (contact Catherine Lennman: [catherine.lennman@edoeb.admin.ch](mailto:catherine.lennman@edoeb.admin.ch))

As the same time as this project, the WG would like to recover the experiences of ICDPPC members monitoring data processing carried out by national or international humanitarian actors. What are the issues? What are the potential obstruction points? The WG would like to use this information to prepare an online questionnaire.

Finally, the RPD has organised a meeting on data protection in international humanitarian action in La Antigua, Guatemala. The meeting will take place on 16 and 17 June 2016. It would like to gather interested members of the WG, actors on the ground, and international organizations active in the field. Participants will be invited to present their experience and their recommendations to ensure that humanitarian actors comply with the main principles of data protection (contact the RPD: [secretaria.ripd@agpd.es](mailto:secretaria.ripd@agpd.es)).

*Floriane Leclercq, AFAPDP*

*"The working group encourages members to get involved."*



*Gift of Elsie M. Waterer in memory of her husband, Anthony Waterer, Sr.*

## COMMISSIONER PROFILE PORTUGAL: FILIPA CALVÃO

*"This above all: to thine own self be true" - Hamlet*

Filipa Calvão, President of the Portuguese Data Protection Authority Comissão Nacional de Protecção de Dados – CNPD

Public (including law enforcement) and private sector at the national level

**Where did you grow up?**

In the city of Porto, Portugal.

**When did you first become involved in data protection or privacy?**

Occasionally in Academia; deeply when I became DP Commissioner.

**What was the first International Conference that you attended?**

Punta del Este – Uruguay, in 2012.

**What did you do before you became a Commissioner?**

Law Professor.

**What was the funniest thing that you saw, or happened to you, at an International Conference?**

If it were not for privacy reasons, I would share with you!

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

Learning, sharing and discussing at a worldwide level with different stakeholders.



**What is your favourite privacy quotation?**

I borrow this fantastic slogan from the Victoria Privacy Commissioner in Australia, along with the most impressive photo: «Privacy. Once it's gone, it's gone»



**What is the best thing about being Data Protection Commissioner?**

To have the possibility of effectively contributing towards guaranteeing the citizens' fundamental rights to personal data protection and privacy.

**“39th  
Conference on  
25–29  
September  
2017 in Hong  
Kong”**

## EVENTS CALENDAR

*"Tomorrow and tomorrow and tomorrow" – Macbeth*

As already mentioned, the Secretariat is creating a 'day in privacy history' list. However, we haven't stopped making privacy history – we have a way to go yet.

The Secretariat has put considerable effort into stocking the website's [Calendar](#) with events that may be of interest to member authorities and others in the data protection community. Events listed are added well in advance like the 39th International Conference on 25–29 September 2017 in Hong Kong.

We encourage anyone involved in scheduling an international privacy event to check with the calendar to help avoid clashes or promote complementary scheduling.

Any authority scheduling an event is encouraged to send relevant details to

[ICDPCEXCo@privacy.org.nz](mailto:ICDPCEXCo@privacy.org.nz) for listing. Include title, location, dates and a website reference if there is one. We are principally focused on events that attract international attendance rather than those that are purely domestically focused. Given our aim to assist authorities to avoid scheduling clashes, we are willing to list closed meetings. We are willing to list commercial events that DPAs regularly attend. Listing is entirely at the discretion of the Secretariat.

JUNE 2016

2 – 3 JUN 9TH ANNUAL PRIVACY LAW SCHOLARS CONFERENCE  
Washington DC, USA

9 – 10 JUN 9TH EURODIG (EUROPEAN DIALOGUE ON INTERNET GOVERNANCE)  
Brussels, Belgium

14 JUN BIOMETRICS INSTITUTE ID AT THE BORDERS SEMINAR USA  
Washington DC, USA

15 – 17 JUN ACCESS AND PRIVACY CONFERENCE  
Alberta, Canada

20 JUN WORLD REFUGEE DAY

21 JUN BIAC BUSINESS DAY "UNLEASHING THE BENEFITS OF INNOVATION IN THE GLOBAL INFORMATION SOCIETY"  
Cancun, Mexico

## COMMISSIONER PROFILE SLOVENIA: MOJCA PRELESNIK

*"This above all: to thine own self be true" — Hamlet*

**Mojca Prelesnik, Information Commissioner, Information Commissioner of Slovenia.**

**Where did you grow up?**

In various towns in Slovenia.

**When did you first become involved in data protection or privacy?**

The protection of personal data became my field of work in 2006 when the office of the Commissioner for Access to Public Information was redefined as Information Commissioner, acquiring the competences of the hitherto Inspectorate for the Protection of Personal Data at the Ministry of Justice.

**What was the first International Conference that you attended?**

Actually the Conference in 2016 will be my first.

**What did you do before you became a Commissioner?**

I have been the Secretary General of the National Assembly since 2008. Before that I was the Deputy Information Commissioner, Government Advisor at the Ministry of the Information Society, but I started my legal practice as an attorney in my own law firm.

**What was the funniest thing that you saw, or happened to you, at an International Conference?**

Since 2016 will be my first, I can only say that I have only heard good things about the Conference so I am looking forward to Marrakesh.

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

Definitely it would be the exchange of views, ideas and experiences which enrich us all. The world of privacy gathered in one room in some way.

**What is your favourite privacy quotation?**

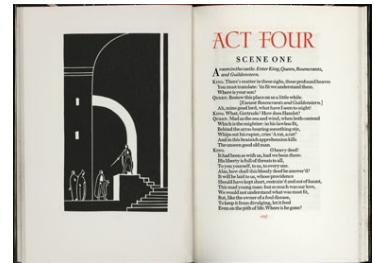
"Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safe-

ty." Benjamin Franklin's quote is my favourite and unfortunately also very relevant in the light of today's alleged security threats resulting in the erosion of privacy. I share the concern that "Any society that would give up a little liberty to gain a little security will deserve neither and lose both."



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

We have broken records in terms of issues addressed and solved in both areas of our competence (data protection and access to public information). Among others we have issued 6 guidelines for data controllers, record number of decisions and contributed significantly to the work of IWGDPT in particular the Working paper on Intelligent video analytics. The courts have in numerous cases confirmed our decisions and we have been successful in limiting the legislative initiatives of the Police to widen their competences regarding invasion to privacy. Finally the debate on regulation of the use of drones in Slovenia has thanks also to our initiatives motivated the regulator to action (including with respect to privacy issues).



*Hamlet. Linoleum cuts by Valenti Angelo. New York: Peter Pauper Press, 1950.*

**"Those who  
would give up  
essential  
Liberty, to  
purchase a little  
temporary  
Safety, deserve  
neither Liberty  
nor Safety "**



International Conference of Data Protection & Privacy Commissioners

ICDPPC

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*Twelfth Night. Illustrations by W. Heath Robinson. Hodder & Stoughton, 1918.*

## COMINGS AND GOINGS

*"Be not afraid of greatness: some are born great, some achieve greatness, and some have greatness thrust upon them" – Twelfth Night*

Maja Smoltczyk was appointed the Data Protection Commissioner for the Berlin Data Protection and Freedom of Information Commissioner.



Eduardo Bertoni is the new Director of the Argentine Data Protection Authority



It has been announced that Christopher Graham's term as the UK information Commissioner ends on 28 June 2016



### Obituary: Bill Orme 1935–2016

Bill Orme, 83, a life-long great battler for justice, recently passed away.



Bill has been described as being 'in effect' Australia's first privacy commissioner (as Executive Member of the NSW Privacy Committee). The New South Wales Privacy Committee Act 1975 established the world's 3rd permanent privacy protection body (an ombudsman with all the powers of a Royal Commission to investigate complaints), following Sweden and Hesse. A fuller [obituary](#) can be found in the Sydney Morning Herald.

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