

Report by Secretariat on Observer Applications

This report addresses the 12 observer applications in the hands of the Secretariat being:

7 applications received by the deadline and considered for the first time;

2 applications received after the deadline and considered for the first time;

2 applications received by the deadline that were dealt with by the Committee at the July meeting but are brought back for reconsideration; and

1 old application that appears not to have been previously subject of decision is presented to regularise the position.

According to the rules and procedures an entity or organisation can be accredited as an observer to the Conference if it fulfils the requirements of article 5.3.

5.3 Observer status

The following entities and organisations can take part in the Conference, with an Observer status:

a. Public entities that do not meet the criteria provided for in the first article, but are involved in dealing with the protection of personal data and/or privacy.

b. International organisations whose activity is related to the protection of personal data or privacy.

c. Any other organisation that has granted Observer status to the Conference, under the principle of reciprocity.

Observer status is granted once an entity or organisation has successfully completed the application process provided for in the next section of these Rules.

5.4 Submission of applications for accreditation as Observer

Entities or organisations that meet any of the conditions provided for in the previous section of these Rules may submit, to the Executive Committee, an application for becoming an Observer to the Conference. For that purpose, they shall:

a. Draft an application letter to become an Observer to the Conference.

b. Fill in the application form, by answering all the questions.

c. Enclose all the necessary accompanying documents to support their application.

d. Provide the documentation to the Executive Committee at least three months before the next Closed Session, to enable it to be properly considered

Applicant	Eligibility requirements under art. 5.3 (a)	Process requirements under art. 5.4	Comments by the Secretariat
Entities/ organisations			
Federal Communications Commission, USA	✓	✓	
The Netherlands Authority for Consumers & Markets	✓	✗	• No application letter
Late applications			
Information Commissioner's Office, Cayman Islands	✓	✗	• Application submitted after deadline
Information Commissioner's Office for Bermuda	✓	✗	• Application submitted after deadline
	Eligibility requirements under art. 5.3 (b)		
International organisations			
Council of Europe	✓	✓	
European Union Agency for Fundamental Rights (FRA)	✓	✓	
OECD	✓	✓	
International Committee of the Red Cross, Data Protection Office: NOTE 1	✓	✗	• No application letter
United Nations, Executive Office of the Secretary General, Special Initiative, UN Global Pulse	✓	✓	

Applications for reconsideration			
Data Protection Office of Europol: NOTE 2	✓	✓	
Data Protection Officer/ Head of Data Protection Service, Eurojust: NOTE 3	✓	✓	
	Eligibility requirements under art. 5.3 (a)		
Application for regularisation			
Department of Homeland Security, Privacy Office, USA: NOTE 4	✓	x/✓	<ul style="list-style-type: none"> • Application submitted after deadline (2012) • Meets deadline (2015)

✓ = requirements met

x = requirements not met

Notes

1. The International Committee of the Red Cross, Data Protection Office application is in name of the DPO which may raise similar issues as for the 2 applications presented for reconsideration.
2. In the Secretariat's view the activities of the Europol are related to the protection of personal data or privacy because it is an international organisation whose activity is collection and processing of data. The DPO ensures lawfulness and compliance with the ECD in relation to data protection. The DPO gives independent advice and guidance in relation to processing of personal data.
3. In the Secretariat's view the activities of the Eurojust are related to the protection of personal data or privacy because it is an international organisation whose activity is to process sensitive data to carry out work in fighting cross-border crime. The DPO is responsible for ensuring, in an independent manner, the lawfulness and compliance with the provisions of the Eurojust Decision concerning the processing of data.

4. Records show application received 1 month before 2012 Conference, minutes and accreditation resolution do not record Department of Homeland Security application being approved or Department of Homeland Security approved as an observer. Secretariat recommends to regularise the position that the Department of Homeland Security, which is an important part of US data protection landscape, should be approved even at this late stage. The Department of Homeland Security/Privacy Office is in a similar position to the DPO applications presented for reconsideration.

Recommendation

The Secretariat recommends all applications be approved.

Executive Committee Secretariat

31 August 2015