31st Madrid, 4th, 5th and 6th, november 2009
international conference
of data protection
and privacy commissioners

AUTHORITIES' CLOSED SESSION – MINUTES

Opening of the meeting

The meeting begins at 15:10h. The Session is chaired by the Director of the Spanish Data Protection Agency, Artemi Rallo Lombarte, as representative of the organising Authority of the International Conference.

Adoption of the Agenda

The chair distributes to those present a new proposed Agenda, which is adopted without major comment. It is enclosed at the end of this document.

DE-BE requests permission to report on the activity of the International Working Group on Data Protection in Telecommunications (known as the Berlin Group). The request is accepted, and will be dealt with in the point relative to "any other business".

Consideration of the Proposals of Resolution

1. Accreditation resolution

ES explains the content of the resolution, in its capacity as secretary of the Credentials Committee.

→ **IL**, **MC** and **UY** are unanimously accredited as new members of the conference.

ES explains that the term of office of two of the Committee members (specifically **HK** and **NL**) has finalised, and proposes as candidates **HK** (which opts for re-election) and **IE**. Both are elected unanimously.

2. Resolution on International Standards of Privacy

ES, as coordinator of the Working Group that led the drafting of the Standards, emphasises the work performed by all the members of the group, stresses that this is the resolution with the broader support of those submitted to date to the Conference, and expresses the need to continue working in order to promote the document, should it be approved. It also announces that representatives of civil society, on the one hand, and ten of the largest companies in the world, on the other, have approved various declarations of support for the standardisation process.

PT takes the floor in order to state its support for the resolution and the Standards. However, it clarifies that they understand its point 15.2 in the following sense:

> *"In particular, where the transfer is carried out within corporations or multinational groups, such guarantees may be contained in internal privacy rules, compliance with which is mandatory, where they are mandatory"*

CA congratulates **ES** for the work performed, and suggests that in the resolution welcoming the standards previous achievements of the Conference, such as the "Global Privacy

Standards" prepared by the Privacy Commissioner of Ontario in 2006, should be recorded as background.

NZ ratifies its support for the work carried out. They are delighted to have participated in the drafting process.

→ The chair opens the voting, and the resolution is adopted by acclamation.

3. Resolution on the strengthening of international cooperation in the field of privacy protection.

CH, the proposer of the resolution, defends the need to reinforce the structure of the Conference, granting it a permanent secretariat, and proposes that a working group be formed to study this need. It remarks that this resolution has been supported by the General Assembly of the French-speaking Data Protection Authorities Association.

EDPS points out a translation error in the English version of the said resolution:

> "a) the globalisation of personal data processing and exchanges independently of the ~~business unit~~ field of activity, and the introduction of new information and communication technologies require an effective and universal protection of the rights and fundamental freedoms, in particular the right to data and privacy protection with regard to processing of personal data"

CA proposes that this working group should complete its work by 30 June, in order to arrive at the 32nd Conference with a resolution in this respect. **CH** expresses its agreement, although it understands that the said period should be flexible, according to the dates on which this next edition is held.

→ The resolution is adopted by consent, with no opposition.

4. Resolution giving directions to the Steering Group to consider seeking observer representation before the Internet Governance Forum, the London Action Plan and ICANN

NZ, on behalf of the Steering Group, explains that observer representation has already been obtained before organisations such as APEC, the Council of Europe and ISO, and that an application has been submitted to the OECD. As a result of its work, they consider it important that the Conference should also be represented before IGF, LAP and ICANN. This will require the collaboration of the Authorities, who should propose representatives to attend the said meetings.

AU states its support for the resolution, although it wishes to put on record that it is not advisable for us to disperse excessively, attending too many groups, and that the rhythm of expansion should be coherent.

→ The resolution is adopted by consent, with no opposition.

5. Resolution on case reporting

NZ explains the usefulness of sharing information in order to be more effective, given that much or its work is unknown to the other authorities.

EDPS points out an error in the title of the version which was distributed to the attendees.

→ The resolution is adopted by consent.

6. Resolution proposed by the Web Site Working Group

CA-BC explains the resolution, thanking the OECD for its collaboration, and the countries that have offered to finance this project for their availability. It announces that a committee will be constituted with six members, of which it announces five: Australia, Berlin, Canada, Spain and Hong Kong.

FR requests to be the sixth member of the committee that will be constituted in this respect.

→ The resolution is adopted by consent, with no opposition and accepting the request of **FR**.

7. Resolution on the establishment of an International Privacy Association (IPA)

FR explains the project, indicating that it is a matter of constituting an association to which each authority, absolutely voluntarily, may decide whether it wishes to join.

DE reminds us that this association will not be constituted immediately, but it is a question of supporting the study of its future implementation.

PT maintains its concerns and doubts, mainly because the IPA would bring together supervisory authorities and companies under the same umbrella. Moreover, and although the initial aim is to give a data protection prize, it fears that it could be expanded in future.

FR insists that it is solely a question of taking note of the work performed, and that in any case the independence of the Association would be guaranteed: on the one hand, by its voluntary nature; on the other, by the fact that the majorities in the decision-making bodies would be formed by the authorities.

FR and **DE** clarify that there would be no formal link between the International Conference and the IPA.

CA proposes that **FR** and **DE** explain their positions in writing, insofar as this may assist in reaching a greater consensus.

→ The resolution is adopted by consent, with no opposition.

8. Resolution to establish an international privacy week

AU, on behalf of the Working Group formed for this purpose, explains the resolution. It explains that after much investigation, they have concluded that the best week is the fourth week of October, and that the event could be held from 2011.

CH regrets having to oppose this if the resolution is not amended to better take in account the existing European data protection day. It understands that 28 January is already consolidated in Europe, and that there is already a certain tradition of carrying out activities not only among the Authorities, but also by industry.

UK, for its part, supports the resolution and understands that Europeans should be more flexible.

DE is in favour of the resolution, but explains that the Europeans cannot forget their anniversaries. It believes that the resolution should contemplate the existence of regional events.

CoE expresses the opinion that it is necessary to conserve 28 January, as the anniversary of the approval of Convention 108.

IT understands the usefulness of establishing an international week, but expresses the opinion that it should be the last week of January.

LU proposes seeking a form of conciliation, by dealing with the subject at the next Conference.

CA-ON affirms that it understands the European perspective, and recognises that in North America they have followed this tradition. It understands that unity is fundamental, and that the ideal situation would be to have one single world privacy day acceptable to all. However, since there is no agreement, it wonders whether we could establish two different days.

AU regrets the lack of consensus. It explains that the southern hemisphere is on holiday in January, and if we are obliged to establish two different days the work of the Group will have been in vain.

HK states that the resolution does not oblige other existing events to be cancelled, but to create a world week. Both celebrations could live together.

THE CHAIR praises the work of the Working Group, but appreciates the division between the members of the Conference, and reminds of the need for consensus when adopting this resolution. Given that there is an evident division, a vote is not held on this resolution.

9. Resolution on the improvement of the organisational set up of the closed session

10. Resolution on accreditation of sectoral Data Protection Authorities

11. Resolution admitting observers from international governmental organisations to the closed session of the Conference

THE CHAIR proposes dealing with resolutions 9, 10 and 11 jointly, since they deal with similar subjects.

ES presents the resolution of the Credentials Committee (9).

NZ introduces, for its part, the resolution on sectoral authorities (10), explaining that it aims to give coverage to authorities that do not necessarily follow the model existing in Europe. Regarding the resolution on the admission of observers (11), it understands that it should be dealt with separately, but accepts that it be voted on together with the previous ones.

EDPS states its agreement to look to the future, owing to which it supports resolutions 9 and 10. With regard to that of the observers, it believes that it does not reflect current reality, especially with regard to the European Commission, and that we should clarify who we include in it.

CH proposes the creation of a permanent statute of observers.

CA misses the presence of ISO in the resolution on observers. It would be logical to grant them this representation, since they have granted it to the Conference.

IT offers to participate in the working group that, if these resolutions are approved, will participate in the drafting of the new rules.

NZ also offers to participate.

THE CHAIR proposes to accept as observers, provisionally and pending new rules, ISO, the OECD, the Council of Europe and the European Commission, in application of the principle

of reciprocity. Likewise, it suggests the opening of a review process of the rules of the Conference in the following terms:

> *Conclusions of the Closed Session of the 31st International Conference*
>
> *The Closed Session:*
>
> - *Notes and receives the submission of the "Steering Group Resolution on the Admission of Observers from International Governmental Organizations to the Closed Session of the Conference", the "Resolution on Accreditation of Sectoral Data Protection Authorities" and the "Resolution of the Credential Committee on the Improvement of the Organizational Set Up of the Closed Session",*
> - *Takes note of the debates at the Closed Session of the Conference on the merits and the implications of these Resolutions and therefore,*
> - *Proposes the establishment of a Working Group, made up of any Accredited Member of the Conference that voluntarily wishes to join it, which is mandated to assess these Resolutions and make concrete proposals which tackle the issues which they address with a view to more effectively equip the Conference to further evolve as the global forum of Data Protection and Privacy Enforcement Authorities.*
> - *Proposes that the Working Group reports back to the Closed Session of the 32nd International Conference at the time and in the way that it deems more convenient in order to ensure that the new regulations or criteria which could be adopted are applied on the occasion of the 32nd International Conference.*

CH supports the proposal, expressing the advisability that the Working Group responsible for assessing the creation of a permanent secretariat for the Conference (resolution 3) should be included in it.

CA suggests 30 June as the deadline for presentation of the work of this new group.

→ The text is adopted by consent, including the suggestions made by **CA** and **CH**.

Next International Conference (2010)

IL volunteers as a candidate to organise the Conference.

→ The proposal is adopted by acclamation.

Any other business

DE-BE explains briefly the work of the Berlin Group, announcing that its next meeting will take place in Granada (Spain) in spring 2010.

Close of the meeting

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Authorities' Closed Session
Draft Agenda
Wednesday, 5 November - 15.00h

1. Opening of the Meeting

2. Adoption of the Agenda

3. Consideration of the Proposals of Resolution

1. Accreditation Resolution.
2. Resolution on International Standards of Privacy.
3. Resolution on the strengthening of the international cooperation in the field of data and privacy protection.
4. Resolution giving directions to the Steering Group to consider seeking observer representation before Internet Governance Forum, London Action Plan and ICANN.
5. Resolution on Case Reporting
6. Resolution proposed by the Website Working Group
7. Resolution on the Establishment of an International Privacy Association
8. Resolution to establish an International Privacy/Data Protection Week
9. Resolution on the Improvement of the Organisational Set Up of the Closed Session.
10. Resolution on accreditation of sectoral Data Protection Authorities.
11. Resolution admitting observers from international governmental organisations to the Closed Session of the Conference.

4. Next International Conference in 2010

5. Any other business

6. Close of the meeting

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Authorities' Closed Session
List of Attendees

Accredited authorities

Andorra: Andorran Data Protection Agency
Australia: Federal Privacy Commissioner
Austria: Data Protection Commission
Belgium: Privacy Commission
Canada: Privacy Commissioner of Canada
- British Columbia: Information and Privacy Commissioner
- New Brunswick: Ombudsman
- Newfoundland and Labrador: Office of the Information and Privacy Commissioner
- Ontario: Information and Privacy Commissioner
- Quebec: Information Access Commission
- Saskatchewan: Information and Privacy Commissioner

Croatia: Croatian Personal Data Protection Agency
Cyprus: Personal Data Protection Commissioner
Czech Republic: Office for Personal Data Protection
Denmark: Data Protection Agency
Finland: Data Protection Ombudsman
France: National Commission for Information and Liberties
Germany: Federal Data Protection Commissioner
- Berlin: Data Protection and Freedom of Information Commissioner
- Mecklenburg–West Pomerania: Data Protection Commissioner
- Schleswig-Holstein: Privacy Commissioner

Gibraltar: Data Protection Commissioner
Guernsey: Data Protection Commissioner
Greece: Hellenic Data Protection Authority
Hong Kong: Privacy Commissioner for Personal Data
Hungary: Parliamentary Commissioner for Data Protection and Freedom of Information
Ireland: Data Protection Commissioner
Isle of Man: Data Protection Registrar
Israel: The Israeli Law, Information and Technology Authority
Italy: Italian Data Protection Authority
Jersey: Data Protection Registrar
Lithuania: State Data Protection Inspectorate
Luxembourg: National Data Protection Commission
Macedonia: Directorate of Personal Data Protection
Malta: Data Protection Commissioner
Monaco: Supervisory Commission for Personal Information
Netherlands: Data Protection Commission
New Zealand: Privacy Commissioner
Portugal: National Data Protection Commission

Romania: National Supervisory Authority for Personal Data Protection
Slovakia: Inspection Unit for the Protection of Personal Data
Slovenia: Information Commissioner of the Republic of Slovenia
South Korea: Korean Information Security Agency
Spain: Spanish Data Protection Agency
    Basque Country: Basque Data Protection Agency
    Catalonia: Catalan Data Protection Authority
    Madrid: Data Protection Agency of Madrid
Sweden: Data Inspection Board
Switzerland: Federal Data Protection Commissioner
    Canton of Basel-Landschaft: Data Protection Commissioner
United Kingdom: Information Commissioner
Uruguay: Regulatory and Control Unit of Personal Data

European Data Protection Supervisor
Joint Supervisory Body of Europol
Joint Supervisory Authority for Schengen Information System
Commission for the Control of Interpol's Files

Observers

Bulgaria: Commission for Personal Data Protection
Chile: Production Development Corporation
    Transparency Council
    Ministry of Economy, Development and Reconstruction
    Office of the Attorney General
Colombia: Colombian Government Trade Bureau
    Ministry of Commerce, Industry and Tourism
    Superintendence of Industry and Commerce
Greece: Hellenic Authority for Communication Security Privacy
Japan: Consumer Affairs Agency
Macao: Office for Personal Data Protection
Mexico: Federal Institute of Access to Public Information
    Mexico City: Institute for Access to Public Information of the Federal District
    Oaxaca: Institute for Access to Public Information of the State of Oaxaca
    State of Mexico: Institute for Access to Information of the State of Mexico
    Tabasco: Institute for Transparency and Access to Public Information
United States: U.S. Federal Trade Commission
    U.S. Department of Commerce
    U.S. Department of Homeland Security

Council of Europe
European Commission
OECD