

APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY

Application to the Credentials Committee for accreditation as a data protection authority pursuant to the resolutions adopted at the 23rd International Conference of Data Protection and Privacy Commissioners at Paris on 25th September 2001.

Notes:

- (a) Please complete application in French or 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. It is possible to avoid such retyping by getting the electronic application form in French or in English upon request by e mail at credentials@privacy.org.nz .

Details of applicant

1. Name and postal address of authority

The Office for Personal Data Protection
Havelkova 22, CZ-13000 Prague 3
Czech Republic

2. Contact person for this application:

(a) Name

Dr. Karel Neuwirt – President of the Office

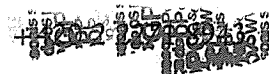
(b) Email address



(c) Direct telephone number



(d) Fax contact



Type of application

3. The application is for accreditation as:

- (a) national Authority YES/NO
- (b) sub-national Authority YES/NO
- (c) Authority within an international, if yes which one... ..YES/NO

Description of applicant

4. Description of Authority (e.g. commissioner, commission, board etc)
State Central Authority
5. Is the Authority a public body? YES/NO
6. Geographical jurisdiction
Czech Republic
7. Sectoral coverage (i.e. does the applicant's jurisdiction cover the entire public and private sectors? If only part of a sector or if there are significant activities not covered, please specify)
public and private sectors (article 3 para 1 of the Act)
8. Is the role of the Authority mainly concerned with data protection and privacy?
YES/NO

Legal basis

9. Title of law under which the Authority is constituted
Act no. 101 / 2000 Coll.
(NB: Coll. means "Collection of Laws" – official Journal for publicising the laws.
The law may come into force only if is published in the Collection of Laws)
10. Is this principally a data protection law? YES/NO
11. Status of the law (e.g. statute, regulation, executive order)
Statute
12. Which body made the law?
The Government of the Czech Republic

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

The Parliament of the Czech Republic

Autonomy and independence

14. 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.)

Extra procedure for appointments the President and 7 Inspectors of the Office.
The President and 7 Inspectors of the Office are appointed by President of the Czech Republic

15. What process is followed?

The Senate of the Czech Parliament elects from the candidates appropriate person by voting procedure and nominates it to the President appointment. President and Inspectors of the Office are elected by separate voting procedures.
(accord. Art. 32 and Art. 33 of the Act)

16. For what term are appointments made?

5 years – President of the Office (accord. Art. 32 para 1 of the Act)
10 years – Inspector of the Office (accord. Art. 33 para 1 of the Act)

17. Does the law under which the Authority operates explicitly state that it acts independently? xYES/NO

18. May the member(s) be removed before expiry of their term? xYES/NO

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

The conditions for removing of the President or Inspector are strictly defined in the Act.
If these conditions are fulfill the removing may proposes the Senate to the President of the Republic. Removing can do only President of the CR.

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

Limited reasons are specified only in the Data Protection Act – Art. 32 para 7 (the President) and Art. 34 para 3 (the Inspector)

21. What are the grounds for removal?

Violation of conditions for which the President or Inspector were appointed.

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

- (e) to initiate an investigation with seeking provision YES/NO

details: according the Police Act and Criminal Act the Office may initiate criminal investigation. Another kind of investigations may doing the Office according own competencies.

- (f) to report to the head of State, head of Government or legislature
YES/NO

details: general competency of the Central state authorities

- (g) make public statements YES/NO

details: the Office competency

23. Does the Authority (and its staff) have immunity from legal suit for actions performed in the course of their duties?

The Office is the State authority. The Office and its staff are protected against legal suit according another relevant laws (eg. Act on the State Control atc.).

24. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's independence (for example if the law provides specifically that the Authority's finances are protected).

- the activities of the Office may be intervened with only on the basis of law (Art.28 para2)
- the Office has a special chapter of the state budget (Art.28 para 3). The amount of this chapter is proposed by Ministry of Finance and debated and approved in the Parliament. The Office management is invited to this debate.

Consistency with international instruments

25. 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) YES/NO
- (b) (i) Council of Europe Convention No 108 (1981) YES/NO
(ii) Council of Europe Additional Protocol (8 November 2001) YES/NO
- (c) UN Guidelines (1990) YES/NO
- (d) EU Directive (1995) YES/NO

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

- the EUROPOL data protection conditions are implement into the Police Act.

According this Act the Office is supervisory body for implementation of data protection principles defined in the Schengen acquis

27. 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 25 and 26? (Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

- ratification of Convention ETS 108
- signature of Additional Protocol to the Convention 108 (ratification procedure has been started. Necessary documents have been passed to the Parliament)
- The President of the Office is member of the Co-ordination group of CJ-PD of Council of Europe
- The President is representative of the country in WP 29 of the European Commission (as observer according WP 29 decision)
- The Office co-operate with the Spanish Data Protection Authority on the base of the European Commission Phare twinning project

Appropriate functions

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

(a) compliance (e.g. audit, inspection) xYES/NO

details: control and inspection activities (Art. 29 of the Act)

(b) approvals (e.g. prior-checking, notification) xYES/NO

details: notification and prior checking (Art. 16-18 of the Act)

(c) redress for individuals (e.g. complaints, conciliation enforcement) xYES/NO

details: competency of the Office (Art. 21 and 29 of the Act)

(d) sanctions available to Authority (for example, prosecution and enforcement) xYES/NO

details: fines to controllers or processors up to 323 M Euro or 646 M Euro respectively (Chapter VII of the Act)

(e) guidance (e.g. compliance advice) YES/NOx

details: the Office gives many consultations to controllers or processors. Written reports as guiding principles were not issued till now. The reason is only a lack of time because the Office does work relatively short time

(f) public education xYES/NO

details: frequent contacts with massmedia and presentations in; regular pressconferences; quarterly issue of information bulletin

(g) policy advice for government xYES/NO

details: no limitation to give any advice to the government, ministries, senators or parliamentary deputies

(h) studies or research (e.g. into developing technologies, privacy issues) xYES/NO

details: Partly – the Office issues statements and comments dealing with daily problems. These materials are published in official Office Journal.

Additional comments

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

At the moment of filling of Application form the Office has 68 staff, sufficient annual budget, working information system, the Intranet, the Internet access for all employees.

Other materials

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

For information are attached some provisions issued by the Office. These information Are published in the Office web sites and also in newly created joint web sites of commissioners of Central and Eastern Europe and Baltic countries (www.ceeprivacy.org)

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

URL: <http://www.uoou.cz>

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

URL:<http://www.uoou.cz>

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 YES/NO

Making the application

The application should be emailed to the credentials committee at credentials@privacy.org.nz

If sent as an email attachment it should be in M/S Word.

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

Credentials Committee
C/- Privacy Commissioner
P O Box 466
Auckland
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 31. If the law itself is not in English or French, it will be useful to supply an English or French summary or translation if one exists.

Use of information

The information in this form will be used for processing the application and will be disclosed to members of the committee and their staff (being the commissioners from New Zealand, France and the United Kingdom) and future committees. It may be also disclosed also to the Data Protection Authorities which participate to the international conference and approved researchers. Any personal data contained in the form is available for access and correction in accordance with the applicable data protection laws of current and future committees. In the first instance it is subject to the New Zealand Privacy Act 1993.

ACCREDITATION OF DATA PROTECTION AUTHORITY
CHECKLIST FOR THE CREDENTIALS SUB-GROUP

1 Name of Authority

**CZECH REPUBLIC- The office of the Personal
Data Protection**

2 Does the authority have clear and wide ranging data protection functions covering a broad area of economic activity (eg not just an advising body or a body operating in a narrow field such as medical privacy)?

Yes

Notes

- Public and private sector nationally
- wide range of powers

3 Legal Basis.

Is the authority a public body established on an appropriate legal basis (eg by statute or regulation)?

Yes

Notes

Public body established by statute

4 Autonomy and Independence?

Is the authority guaranteed on appropriate degree of autonomy and independence to perform its functions (eg the power to make public statements and protection from removal from office)?

Yes

Notes

Designation of the president (5 years) and 7 inspectors (10 years) by Parliament
Operate explicitly independently according to the Act- narrow reasons for removal defined in the statute on the request of Parliament to the President of Republic
- power of delivering public statement

5 Consistency with International Instruments.

Is the law under which the authority operates compatible with at least one of the international instruments dealing with data protection and privacy (eg EU Directive, OECD Guidelines, Council of Europe Convention)?

Yes

Notes

In particular OCDE, COE convention,
- Missunderstanding of question 27 without effect on the matter
Czech Republic has assigned the additional protocol to CoE Convention.

6 Appropriate Functions.
Does the authority have an appropriate range of functions with the legal powers necessary to perform those functions (eg the power to receive and investigate complaints from individuals without seeking permission)?

Yes

Notes
All functions listed

7 Does the Sub-group recommend accreditation?

Yes

Notes

8 If accreditation is recommended what is the accreditation as?

National authority (within the UN criteria)

Notes

9 If accreditation is as an authority within an international/supranational body does the recommendation include voting rights?

Not Applicable

Notes

10 If accreditation is not recommended does the Sub Group recommend that accreditation is refused or is more information needed before a decision can be made?

Not Applicable

Notes

11 If accreditation is not recommended and the application is from an authority with narrow functions does the Sub Group recommend that, at the discretion of the conference host, observer status is granted?

Not Applicable

Notes

If more information is required what is this:

Signed on behalf of the Sub-group:

Marie GEORGES

Date: June 12, 2002

BLAIR STEWART

Date: *27 June 2002*

Date:

Note: 2 signatures required for recommendations for accreditation.
3 signatures required for recommendations for refusal