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Hamburg: Data	Protection Commissione	er (Hamburgischer Da	tenschutzbeauftragter)
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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.

N	o	t	e	S	:

- (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	author	ity
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Hamburgischer Datenschutzbeauftragter Baumwall 7, D 20459 Hamburg, Germany

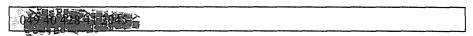
- 2. Contact person for this application:
 - (a) Name

Dr. Hans-Hermann Schrader

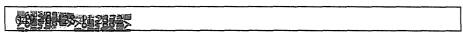
(b) Email address



(c) Direct telephone number



(d) Fax contact



Type of application

- 3. The application is for accreditation as:
 - (a) national Authority

NO

(b) sub-national Authority

YES

(c) Authority within an international, if yes which one..... NO

Description of applicant

4.	Description of Authority (e.g. commissioner, commission, board etc)
	Commissioner
5.	Is the Authority a public body? YES
6.	Geographical jurisdiction
٠	Hamburg
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
8.	Is the role of the Authority mainly concerned with data protection and privacy? YES
Legal	basis
9.	Title of law under which the Authority is constituted
	Hamburgisches Datenschutzgesetz
10.	Is this principally a data protection law? YES
11.	Status of the law (e.g. statute, regulation, executive order)
	statute
12.	Which body made the law?
	Parliament of Hamburg (as a city-state)
13.	What body has the power to amend or revoke the law?
	Parliament of Hamburg

Autonomy and independence

to the	1	member from other Authority members in this question and in subsequent				
	Parliament	of Hamburg				
15.	What pro	What process is followed?				
	election					
16.	For what	term are appointments made?				
	6 years (a	nd only once more 6 years)				
17. indep	Does the pendently?	law under which the Authority operates explicitly state that it acts				
18.	May the n	nember(s) be removed before expiry of their term? NO				
19.	If yes, wh	o may remove members of the Authority before expiry of their term?				
Are there limited reasons specified in the statute, or in another law, permitted grounds for removal?						
21. What are the grounds for removal?		the grounds for removal?				
22.	Does the	Authority possess the following powers (briefly describe and give statutory s)				
	(e)	to initiate an investigation with seeking provision YES				
		details: several times every vear				
	(f)	to report to the head of State, head of Government or legislature YES				
		details: report to the Senate and Parliament				
	(g)	make public statements YES				
		details: media brochures internet				

Who appoints member(s) of the Authority? (Please explain if a different process applies

	Yes,	only the commissioner is responsible for the staff					
24.	guara	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).					
	Fina	nces are protected by the law					
Cons	istency	with international instruments					
25.	Does	the Authority explicitly implement any international	instrument (for example if the				
	law u	law under which the Authority operates specifies that it implements such international					
	instru	nment)? YES					
	If "yes", which of the following does it principally implement?						
	(a)	OECD Guidelines (1980)	NO				
	(b)	(i)Council of Europe Convention No 108 (1981)	NO				
		(ii) Council of Europe Additional Protocol (8 Novements)	mber 2001)				
			NO				
	(c)	UN Guidelines (1990)	NO				
	(d)	EU Directive (1995)	YES				
26.		eneral or specific international					
	NO						
27.	with ques Com	e significant questions been raised about the extent the international instruments which are claimed to tions 25 and 26? (Applicants should supply fur amittee including a description of any measures ansistencies.)	to be implement in answer to ther information to assist the				

NO

Appropriate functions

(a)	atutory references): compliance (e.g. audit, inspection)	YES
	Details: inspection	
(b)	approvals (e.g. prior-checking, notification)	YES
	details: prior-checking	
(c)	redress for individuals (e.g. complaints, conciliat	tion enforcement) YES
	details: complaints	
(d)	sanctions available to Authority (for example, provided the YES)	rosecution and enforces
	details: prosecution and enforcement (only pri	vate sector)
(e)	guidance (e.g. compliance advice)	YES
	details: compliance advice	
(f)	public education	YES
	details: public conferences	
(g)	policy advice for government	YES
	details: policy advice	
(h)	studies or research (e.g. into developing technol	logies, privacy issues) YES
	details: several scientific brochures	
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	omments	
Appli	cants are invited to offer any further comments th	nat they wish.
COOL	perations with the other sub-national, national and inernati	onal Authorities

Other materials

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

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

URL: www.hamburg.datenschutz.de

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: www.hamburg.datenschutz.de

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

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

Hamburgischer Datenschutzbeauftragter, Germany

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)?

<u>Yes</u>

No

Don't know

Notes

The Authority covers the City/State of Hamburg, including both public and private sectors.

It is a German Land in its own right. To draw a distinction between this and the others on the grounds of limited geographic scope would be difficult

3 Legal Basis.

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

<u>Yes</u>

No

Don't know

Notes

Land DP Law

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)?

Notes

Although Statutory references not provided it is assumed that these are embodied in DP law

<u>Yes</u>

No

Don't know

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

No

Notes

EU Directive

	Don't know	
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)?	Notes Full range of powers
	Yes	
	No	
	Don't know	
7	Does the Sub-group recommend accreditation? Yes No	Notes Although Hamburg is a 'City/State' It is one of 3 such Lander within the German system. It is therefore on a par with other lands. It would be hard to discriminate between these on the grounds of size
8	If accreditation is recommended what is the accreditation as?	Notes
	National authority (within the UN criteria)	
	Authority within a limited sub-national territory	
	Authority within an international or supranational body	
9	If accreditation is as an authority within an international/supranational body does the recommendation include voting rights?	Notes
	Voting Rights	
	No Voting Rights	
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?	Notes
	Refusal	
	More Information	
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	Notes

conference host, observe	er status is granted?		
Not Applicable			
Yes			
Not			
If more information is re	equired what is this:		
Signed on behalf of the Subgroup:	Jonathan Bamford	Date:	26/06/02
	Blair Stewart	Date:	9 July 2002
		Date:	

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