

Mecklenburg–West Pomerania: Data Protection Commissioner (Landesbeauftragte für  
den Datenschutz Mecklenburg-Vorpommern)

# 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 23<sup>rd</sup> International Conference of Data Protection and Privacy Commissioners at Paris on 25<sup>th</sup> 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](mailto:credentials@privacy.org.nz).

## Details of applicant

1. Name and postal address of authority

Der Landesbeauftragte für den Datenschutz Mecklenburg-Vorpommern Schloss Schwerin 19053 Schwerin
--

2. Contact person for this application:

(a) Name

Dr. Werner Kessel
-------------------

(b) Email address

<del>data@dsz.vorpommern.de</del>
-----------------------------------

(c) Direct telephone number

<del>0385 349 40</del>
------------------------

(d) Fax contact

<del>0385 349 40</del>
------------------------

## Type of application

3. The application is for accreditation as:

- (a) national Authority YES

(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

Mecklenburg-West Pomerania

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 sector

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

art. 37 constitution of Mecklenburg-West Pomerania /  
§ 29 data protection law of Mecklenburg-West Pomerania  
(Landesdatenschutzgesetz – DSG M-V)

10. Is this principally a data protection law? YES (DSG M-V)

11. Status of the law (e.g. statute, regulation, executive order)

statute

12. Which body made the law?

federal state parliament

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

federal state parliament

## 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.)

the president of parliament appoints the commissioner after election  
(the members of staff are appointed on the recommendation of commissioner)

15. What process is followed?

commissioner takes up the office

16. For what term are appointments made?

6 years

17. Does the law under which the Authority operates explicitly state that it acts independently? YES

18. May the member(s) be removed before expiry of their term? YES

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

the parliament (the votes of 2/3 of the members of parliament are necessary)

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

no

21. What are the grounds for removal?

several grounds

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

(e) to initiate an investigation with seeking provision YES

details:- to inspect obeying of the data protection law (§§ 30, 31 DSG M-V)  
- to institute criminal proceedings in case of criminal acts according to § 42 DSG M-V ( § 42 (4) DSG M-V)

(f) to report to the head of State, head of Government or legislature YES

details: about the results of the checks (§§ 32, 33 (1) DSG M-V)

(g) make public statements YES

details: about data protection topics (§ 33 (4) DSG M-V)

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

no

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).

Authority's finances are entered within a special chapter of the budget of parliament (§ 29 (6[3]) DSG M-V)

### 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

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 November 2001)

NO

(c) UN Guidelines (1990) NO

(d) EU Directive (1995) YES

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

no

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.)

no

### 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) YES

details: inspection because of and without a special reason (§ 30 DSG M-V)

(b) approvals (e.g. prior-checking, notification) YES

details: in special cases of data transmission to country which are not member states of the EU (§ 16 (3 No. 5) DSG M-V)

(c) redress for individuals (e.g. complaints, conciliation enforcement) YES

details: every individual has the right to complain about the processing of his/here personal data by an Authority to the commissioner (§ 26 DSG M-V)

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

details: -

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

details: compliance advice (§ 33 [2] DSG M-V)

(f) public education YES

details: information to the public about data protection (§ 33 (4) DSG M-V)

(g) policy advice for government YES

details: look at (e)

(h) studies or research (e.g. into developing technologies, privacy issues) YES

details: observation of developing technologies (§ 33 (5) DSG M-V)

### Additional comments

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

-

### 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.datenschutz.mvnet.de/ges\\_ver/guv/guv\\_c\\_20.html](http://www.datenschutz.mvnet.de/ges_ver/guv/guv_c_20.html)

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.datenschutz.mvnet.de/taetberi/tb5/tb5.html](http://www.datenschutz.mvnet.de/taetberi/tb5/tb5.html)

### 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](mailto: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   | Landesbeauftragter für den Datenschutz Mecklenburg-Vorpommern (Germany)     |
| 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)?<br><br><u>Yes</u><br><br>No<br><br>Don't know   | Notes<br><br>Public sector  |
| 3 | Legal Basis.<br>Is the authority a public body established on an appropriate legal basis (eg by statute or regulation)?<br><br><u>Yes</u><br><br>No<br><br>Don't know   | Notes<br>DP Law of Mecklenburg-West Pomerania and constitutional guarantees |
| 4 | Autonomy and Independence?<br>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)?<br><br><u>Yes</u><br><br>No<br><br>Don't know   | Notes<br>Provided for in DP law   |
| 5 | Consistency with International Instruments.<br>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)?<br><br><u>Yes</u><br><br>No<br><br>Don't know | Notes<br><br>EU Directive   |

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

No

Don't know

Notes

Full range of functions provided for in DP law but stated not able to prosecute- this contradicts an earlier answer stating that it can institute criminal proceedings so may be a translation error

7 Does the Sub-group recommend accreditation?

Yes

No

Notes

8 If accreditation is recommended what is the accreditation as?

National authority (within the UN criteria)

Authority within a limited sub-national territory

Authority within an international or supranational body

Notes

Application as both national and sub-national made, however a German Land does not meet UN criteria

*The application as a national authority appears to be an error since this is clearly a sub-national authority.*

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

Voting Rights

No Voting Rights

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?

Refusal

More Information

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?

Notes

Not Applicable

Yes

Not

If more information is required what is this:

Signed on behalf of the Sub-  
group:

Jonathan Bamford

Date: 5/6/02

*Blair Stewart*

Date: *9 July 2002*

Date:

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