

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.

July 10, 2002

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

Inspection Unit for the Protection of Personal Data
Urad vlady SR
Nam. Slobody 1
813 70 Bratislava
Slovak republic

2. Contact person for this application:

(a) Name
Natalia Krajcovicova

(b) Email address

~~Natalia.Krajcovicova@upb.gov.sk~~

(c) Direct telephone number

~~+4216359379261~~

(d) Fax contact

~~+4216359379266~~

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)

the Office for the protection of personal data

5. Is the Authority a public body? YES/NO

6. Geographical jurisdiction

nation-wide level

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) entire private and public sector, act on protection of personal data applies to all sectors, and supervision over personal data processed by intelligence service and army intelligence will be performed by the parliamentary committee

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

new Act on the protection of personal data, it will come in force 1 september 2002

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?
Commissioner for the protection of personal data, Inspection unit for the protection of personal data

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

The 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 chairman of the office will be at the head of the office. Independence of the Office is enhanced through the proposed procedure of appointing and removing of the Chairman of the Office. The Chairman of the Office for personal data protection will be appointed by the Parliament on the nomination of the government of the Slovak republic. The Chairman can be removed only on the grounds expressly stipulated by the law. The vice - chairman of the office and inspectors of the office are appointed and removed by the government on the nomination of the chairman of the office.

15. What process is followed?

16. For what term are appointments made?

The chairman is appointed for 5 years and he may be appointed for no more than two consecutive terms. The vice-chairman and inspectors are appointed for five years.

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

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

19. If yes, who may remove members of the Authority before expiry of their term?
The Chairman may be removed by the parliament of the Slovak Republic.

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

They are specified in the statute

21. What are the grounds for removal?

The Chairman of the Office for personal data protection may only be removed from the office on the grounds of a conflict of interests, if his health condition prevents him to perform his duties properly for at least one year, or the committing of a deliberate criminal act, for which he or she has been lawfully convicted. It also applies for the vice-chairman. The inspectors may be removed except mentioned grounds also on the grounds of failure to perform their tasks and obligations laid down by the law

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

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

(1) According to the data protection law the Office monitors the processing of personal data in information systems; to this end is entitled to inspect materials and obtain extracts of data from controllers and processor; it may summon the controller or the processor with the aim of requiring an explanation; the authorities of government, municipalities and controllers are obliged to provide the Office with any assistance it may need when carrying out its functions, the controller and processor are obliged to provide the Office with any data he may require when carrying out his functions, the office notifies the authorities conducting criminal proceedings in the case of a suspected criminal offence; (art. 39, 40, 44)

(f) to report to the head of State, head of Government or legislature YES/NO
the Office submits to the Government of the Slovak Republic and the Parliament a report on the status of the protection of personal data in information systems at least once for two years.

(g) make public statements YES/NO

art. 38, the office may issue binding opinions in the case of doubts whether information system containing personal data is subject to registration or not, or in the case of doubts concerning transborder data flow, in the case of doubts whether processed personal data are adequate as to purpose of their processing, recommendations for controllers, and within its incidence issues generally binding legal regulations (art. 37)

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).

The office is self-standing and acts independently when performing its duties. The authority has its own budget and it may be changed only by the Parliament.

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)

- | | | |
|-----|----------------------|---------------|
| | | <u>YES/NO</u> |
| (c) | UN Guidelines (1990) | YES/NO |
| (d) | EU Directive (1995) | <u>YES/NO</u> |

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

Commission decision of 27 December 2001 on standard contractual clauses for the transfer of personal data to processors established in third countries, under Directive 95/46/EC

27. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implemented 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/NO

details: the office may carry out controls, inspections, as to processing of personal data art. 38

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

details: approvals as to transborder data flow in some cases, art. controllers notify the office of the restriction of the data subject's rights art. 22
prior – checking - the office makes a judgement as to whether the processing of personal data does not potentially endanger the rights and freedoms of the data subjects. Art. 27

(c) redress for individuals (e.g. complaints, conciliation enforcement) YES/NO¹

details:

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

details: the office may impose penalties, having detected the breach of an obligation the office may make public the controller's name, outlining the facts establishing the violation of personal data protection

(f) guidance (e.g. compliance advice) YES/NO

details: issuing of opinions, standpoints art.. 38

(g) public education YES/NO

details: lectures for the general public, controllers etc.

(g) policy advice for government YES/NO

¹ Marie Georges indicates that additional information on that point had been provided by the applicant by email to her . MG forwarded that e mail to the Credentials Committee

details: commenting draft laws art. 38

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

details: carrying out public opinion polls, cooperation with universities, IT firms etc.

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.

The law in English and French will be available at the end of July.

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

URL:

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:

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

Inspection Unit for the Protection of Personal Data,
Slovakia

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

-All public and private sectors except intelligence services and army supervised by a Parliamentary committee
- wide range of power

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

Up to June 2002 designation by Government on proposal of the President of the Statistical office

New law adopted in June, in effect September 1st, 2002, designation by Parliament on proposal of Government

Wide range of powers of the DPA (investigation, sanctions, public report...)
About complains in addition to the response to question 28, Natalia wrote me responding to my question of clarification on July 10, 2002, the following "yes of course, we are entitled to receive and settle complaints from individuals and we also may carry out investigations (and controllers of information systems are obliged to provide the office with any data and

assistance it may require when carrying out its functions) In case of breach of personal data protection provisions the office has power to impose sanctions
I am sorry I didn't understand exactly what was meant by that question."

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
COE convention 108,
European directive
Signed CoE additional protocol on 8 November 2001.

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

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

Notes

Not Applicable

- 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

If more information is required what is this:

Signed on behalf of the Sub-group:

Marie Georges

Date: 10 July 2002

Blair Stewart

Date: 12 July 2002

Date:

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