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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.

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

REPUBLICA SLOVENIJA
 VARUH ĀLOVEKOVIH PRAVIC (HUMAN RIGHTS OMBUDSMAN)
 DUNAJSKA 56,
 1109 LJUBLJANA
 SLOVENIJA

2. Contact person for this application:

(a) Name

JERNEJ ROVŠEK, deputy ombudsman

(b) Email address

jernej.rovsek@rovsek.si

(c) Direct telephone number

+386 1 473 0020

(d) Fax contact

+386 1 473 0040

Type of application

3. The application is for accreditation as:

(a) national Authority YES

(b) sub-national Authority NO

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

Description of applicant

4. Description of Authority (e.g. commissioner, commission, board etc)

Commissioner (Ombudsman)

5. Is the Authority a public body? YES

6. Geographical jurisdiction

SLOVENIA

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 and private sector when exercising public authority

8. Is the role of the Authority mainly concerned with data protection and privacy?
NO

Legal basis

9. Title of law under which the Authority is constituted

Personal Data protection Act 1999 (Amended 2001) and Human Rights Ombudsman Act 1993

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?

National Parliament

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

National 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 Ombudsman is elected by the Parliament with 2/3 majority of all MP votes. Deputy ombudsman is appointed by the parliament upon the nomination made by the ombudsman. The deputy Ombudsman in charge of implementing the task of independent of data protection authority is appointed by the ombudsman.

15. What process is followed?

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16. For what term are appointments made?

For 6 years for Ombudsman and deputy ombudsmen

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? NO

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

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

Yes in the article 21 of the ombudsman act

21. What are the grounds for removal?

- criminal conviction and imprisonment
- permanent loss of ability for performing his duties

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

(e) to initiate an investigation with seeking provision YES

Details: investigation is regulated in details in the articles 36 - 40 of the ombudsman Act

(f)

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

(g) make public statements YES

Details:

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

Ombudsman has professional immunity and shall not be held in custody without the prior consent of the parliament (Article 20)

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).

Article 4: ombudsman shall be autonomous and perform his function independently
Article 55: the ombudsman budget is allocated in the national budget by the parliament upon the proposal made by the ombudsman.

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?

- (i) Council of Europe Convention No 108 (1981)
- Council of Europe Additional Protocol (8 November 2001)

-UN Guidelines (1990)

-EU Directive (1995)

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

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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

details: monitoring the work of the data protection inspectorate (article 29c of the DP Act)

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

details:

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

details: investigation of the individual complaints

(d) sanctions available to Authority (for example, prosecution and enforcement) YES

details: a person or body is fined for minor offence failing to respond to the ombudsman (article 56)

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

details:

(f) public education YES

details:

(g) policy advice for government YES

details:

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

details:

Additional comments

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

The task of the ombudsman is supplemented with the task of the Data Protection inspectorate of the Republic of Slovenia, whose work is supervised by ombudsman

Other materials

30. List any attachments which will accompany the application as an electronic

- Human Rights Ombudsman Act
- Act Amending the Data Protection Act
- Jernej Rovsek: PROTECTION OF PERSONAL DATA MECHANISMS IN THE REPUBLIC OF SLOVENIA
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31. If law under which the Authority operates is accessible on the Internet, please give the reference

URL:<http://www.varuh-rs.si/cgi/teksti-eng.cgi/Index?vsebina=/cgi/teksti-eng.cgi%3Fpozdrav>

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.varuh-rs.si/cgi/teksti-eng.cgi/Index?vsebina=/cgi/teksti-eng.cgi%3Fpozdrav>

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

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

1 Name of Authority

Slovenia- Human Right Ombudsman

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 sector and private sector when exercising public authority

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 law but not mainly competent on Data Protection, while his deputy is by law in charge of this task

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
- The Ombudsman is independent . His powers under the DP Act is to supervise the work of the administrative body called "the Data Protection Inspectorate, designated by a Ministry, in charge of the control the application of the DP law. He has large powers to investigate violations, give advice to that body, make law proposals, make an annual report to the Parliament
The task of this supervision is devoted to the Ombudsman deputy.
- The administrative office is the own which receives normally the complaints, makes investigation on the spot, has the power to block a data processing. The annual report of this administrative body is not public. But the Ombudsman for human rights is entitled to issue a

public report

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)?

Notes
COE convention
UN guide line
EU directive according to the applicant

Yes

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
Although the Ombudsman function is to supervise the work done by the administrative body, he has the power to investigate and to ask this office to order a ban on a particular processing

Yes

7 Does the Sub-group recommend accreditation?

Notes

Yes

8 If accreditation is recommended what is the accreditation as?

Notes

National authority (within the UN criteria)

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

Notes

Not applicable

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

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

Notes

conference host, observer status is granted?

Not Applicable

If more information is required what is this:

According to my knowledge it is the only case where the daily work is done by an administrative public control body while an independent public body the Human rights Ombudsman has a function of controlling that unit, of investigating violations, of making studies, proposal for new regulation ...

Signed on behalf of the Sub-group:

Marie Georges

Date: 18 juillet 2002

Blair Stewart

Date: 18 July 2002

Date:

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