

**30th International Conference of
Data Protection and Privacy Commissioners
Strasbourg, France
October 15-17, 2008**

Report of the Credentials Committee

This is the 7th Annual Report of the Credentials Committee of the International Data Protection and Privacy Commissioners Conference. It presents an overview of the current members of the Committee and its Subgroup, as well as a summary of which authorities applied for accreditation this year and the Committee's recommendations in this regard.

Membership of the Committee

Following the decision taken at the 29th conference the Credentials Committee is comprised of the following members:

- Jacob Kohnstamm, Chairman, Dutch Data Protection Authority
- Alex Türk, Chairman, French Data Protection Authority
- Roderick Woo, Privacy Commissioner for Personal Data, Hong Kong

The Committee's main role is to review applications for accreditation to the Conference and recommend to the Conference the authorities that should to be accredited.

Mr. Kohnstamm and Mr. Türk were appointed to the Credentials Committee at the 28th Conference and their terms will expire immediately after the 30th Conference. Mr. Woo was appointed to the Credentials Committee at the 29th Conference and his term still has one year to go before expiration.

The Credentials Committee may be assisted by a subgroup, which prepare the work. This year it is comprised of:

- Roderick Woo, Privacy Commissioner for Personal Data, Hong Kong
- Laetitia Kröner, Dutch Data Protection Authority
- Marie Georges, French Data Protection Authority

The Subgroup assesses each application received based on the Accreditation Principles of the Conference, and makes recommendations to the Committee in this regard. The Subgroup also carries out other duties and functions related to activities of the Committee, such as preparing the report for consideration by the Committee and later tabling same at the Conference.

Applications Received

The Committee this year received two applications from national data protection authorities:

- Burkina Faso – Data Processing and Liberties Commission (Commission de l’informatique et des libertés)
- Croatia – Croatian Data Protection Agency (Agencija za zastitu osobnih podataka)

The Committee also received five applications from the following sub-national data protection authorities:

- (i) North Rhine-Westphalia (Germany) - The Data Protection and Information Commissioner (Die Landesbeauftragte für Datenschutz und Informationsfreiheit Nordrhein- Westfalen (LfD NRW))
- (ii) Baden-Württemberg (Germany) – The Data Protection Commission (Die Landesbeauftragte für Datenschutz Baden-Württemberg)
- (iii) Saxony (Germany) - The Saxon Data Protection Commissioner (Der Sächsische Datenschutzbeauftragte (Sächsischer DSB))
- (iv) Macao SAR (RPC) – Office for Personal Data Protection (Cabinete para a Protecção de Dados Pessoais)
- (v) Federal District, Mexico city (Mexico) – The Federal District Institute of Access to Public Information (*Instituto de Acceso a la Información Pública del Distrito Federal*)

Applications (ii) and (iii) were subsequently withdrawn.

Application (v) was received on September 12, 2008, long after the deadline, therefore it could not be dealt with.

The Committee examined the remaining two applications, namely:

- North Rhine-Westphalia (Germany) - The Data Protection and Information Commissioner (Die Landesbeauftragte für Datenschutz und Informationsfreiheit Nordrhein- Westfalen (LfD NRW))
- Macao SAR (RPC) – Office for Personal Data Protection (Cabinete para a Protecção de Dados Pessoais)

Recommendations of the Credentials Committee

Upon review of the applications received and consideration of legislative instruments and other documents provided as background information, the Credentials Committee recommends that :

- (a) the Data Processing and Liberties Commission of Burkina Faso
- (b) the Croatian Data Protection Agency
- (c) the Data Protection and Information Commissioner from North Rhine-Westphalia in Germany

be granted accreditation to the Conference.

The Credentials Committee is satisfied that these authorities meet the requisite conditions for accreditation—notably that they have:

- a clearly establish legal basis;
- legislation consistent with the major international instruments in the area of privacy;
- a clear and wide ranging mandate covering a broad area of economic activity;
- the autonomy and independence to carry out their work;
- appropriate functions to carry out their mandate.

The Credentials Committee does not recommend that the Office for Personal Data Protection of Macao SAR be granted accreditation at this time. In the Committee's view, while this office exercises powers covering a broad area of activities both in the private and the public sectors, provided by the Data Protection Act of 2005, it does not currently possess the full legal basis and a status providing permanent independence to justify accreditation. The Committee urges the Office to continue its work in the area of privacy and data protection promotion and protection, in the hope that it may one day be in a position to join the Conference as an accredited data protection authority.

Background Information on the New Members

In April 2004, the Parliament of Burkina Faso adopted the Data Protection Act, which covers both private and public sector. In 2006 the decree on the functioning of the DPA was adopted and the members of the first commission were designated in November 2007. The current Chairman of the commission is Mrs. Alimata Ouattara who, with the other members of the Commission, is in charge of the supervision of the Data Protection Act.

In June 2003 the Parliament of Croatia adopted the Data Protection Act, which was modified in June 2008. It applies to both public and private sectors. The Croatian Data Protection Agency, established in March 2004, is in charge of the supervision of the law. The Director of the Agency is currently M. Franjo Lacko.

The Data Protection and Information Commissioner of North Rhine-Wesphalia (Germany), established in september 1979 is in charge of supervising the North Rhine-Wesphalia's Data Protection Act adopted in 2000 (modified in 2005) applying to the public sector under this Land's competence, and the 1990 Federal Data Protection Law, modified in 2003 and 2006, applying to the private sector within the territory of North Rhine-Wesphalia for those activities which do not fall under the federal competence. Currently the Data Protection and Information Commissioner of North Rhine-Wesphalia is Mrs Bettina Sokol.

Looking Ahead

During the assessment of applications, it appeared that more than half of the applicants did not have the basic relevant legal texts in one of the two languages of the Committee at their disposal. Therefore the Committee recommends that this need be insisted upon any future data authorities making applications for accreditation.

As indicated above, the two-year terms of the Chairmen of the Data Protection Commissions of France and Netherlands are coming to an end this year. Mr. Turk has decided not to seek or accept a re-appointment. Mr. Kohnstamn is willing to be nominated for re-appointment for one year. The Committee may, if Mr. Kohnstamn is re-appointed, need only one new member to replace Mr. Turk. The Criteria and Rules for the Credentials Committee indicate that the Committee are to be composed of three members. The Rules further state that the Committee may not contain more than one member from the same country at any time. It will be most convenient, according to long practice, if the host of the 2009 international conference can be a member of the Committee.

The Committee wishes to draw to the attention of the Conference the need to keep its archives in a permanent and accessible way. The archives are composed of template forms, applications, supporting documentation, key correspondence amongst the committee, decisions, interpretations and resolutions. The archives weight already several kilos on paper. In order to figure out the problem it is interesting to know that two years ago those archives were shipped from New Zealand (first credentials committee secretariat for 5 years) to the next Committee secretariat in Canada. Today there is a need to store all the three successive Committees archives.

The ability to have access to the archives is very important for the Committee in its work of evaluation for the following reasons, namely its recommendation policy can be kept consistent throughout the years and researchers can be benefited from being able to inspect the applications forms under the condition of the applicant's agreement which is indicated on the application form. This means that a permanent organization in terms of both location/accessibility and of a person in charge of its management is urgently needed. The Committee recommends this matter be studied in consultation with the Website Working Group of the Conference up to the stage of an operational solution hopefully within the coming year.