



## ***Counting on Commissioners: High level results of the ICDPPC Census 2017***

6 September 2017



*Embargoed until 27 September 2017 when the report will be tabled in Hong Kong at the closed session of the 39<sup>th</sup> International Conference of Data Protection and Privacy Commissioners and publicly released at the ICDPPC-OECD Roundtable on an International Metrics Agenda for Privacy-Policy Making.*

# Table of Contents

## Introduction

### Part by Part results

- A. Authority profile
- B. Data protection law, jurisdiction and exemptions

*Jurisdiction and exemptions infographics*

- C. Authority's funding and resources

*Profile of a typical Privacy or Data Protection Authority*

- D. Authority's enforcement powers, case handling and reporting
- E. Cross-border data flows, enforcement and cooperation
- F. Breach notification
- G. Other matters

### Appendices

- 1: Organisational details and acknowledgements
- 2: Text of Census questions
- 3: Release of census data for other research
- 4: List of Figures and tables
- 5: Links to annual reports



## Introduction

Blair Stewart

**ICDPPC Secretariat**

**& Convenor ICDPPC Data Protection Metrics Working Group**

The ICDPPC Secretariat is pleased to report some high-level results from the first ever ICDPPC Census.

The direct genesis of this project was the 37<sup>th</sup> Conference's [Resolution on developing new metrics of data protection regulation](#) in which Commissioners undertook to “play a part in helping to develop internationally comparable metrics in relation to data protection and privacy and to support the efforts of other international partners to make progress in this area”.

The resolution, and the subsequent ICDPPC Census, was based upon understandings that the ability to measure is a precondition to effective management and improvement but that the evidence base which is currently available in the area of privacy is uneven. The Census is just one of several initiatives by a range of stakeholders to develop internationally comparable metrics to inform the policy making process related to privacy and cross-border information flows.

This report is not the first practical outcome from the census as the ICDPPC Secretariat has already built and launched an [online directory](#) of members' social media sites using census data.

Nor is this report intended to be the ‘last word’. It is expected that further in-depth analysis will draw upon the data. We are encouraged by a number of researchers who have already sought to use the census data under [access arrangements](#) designed to make the information freely available.

The ICDPPC Secretariat acknowledges the collective effort to deliver the results. Special mention should be made to staff at the Office of the Privacy Commissioner, New Zealand, and to the OECD that allowed the Conference to use its online survey platform. Thank you to INAI Mexico and DPC Ghana for producing several colourful infographics: a reminder that attention is needed not only to obtain, share and use statistics but also to effectively present and explain them.

Thanks also go to the 87 privacy and data protection authorities that completed the survey and their staff who assembled the 4000 or so individual answers to questions.

Blair Stewart

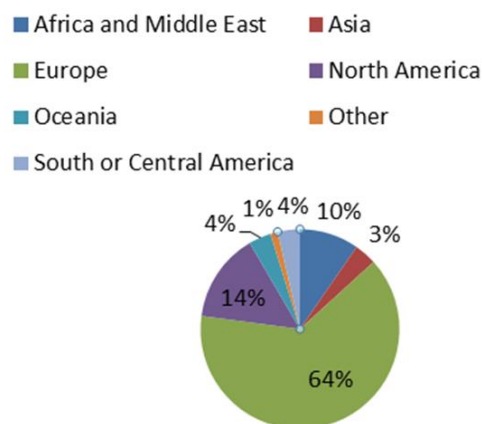
**ICDPPC Secretariat**

## Part A: Authority profile

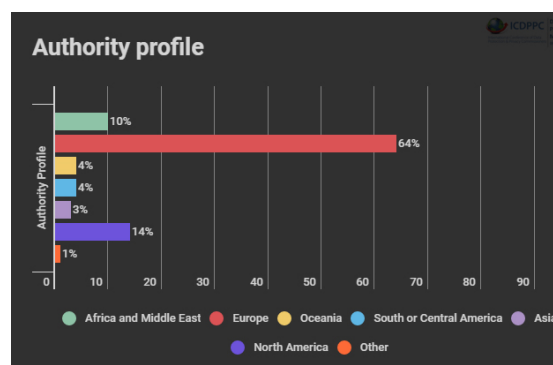
### Geography

Authorities that responded to the census survey were located in the following regions:

**FIGURE 1: REGION IN WHICH THE AUTHORITY IS LOCATED (85 RESPONDENTS)**



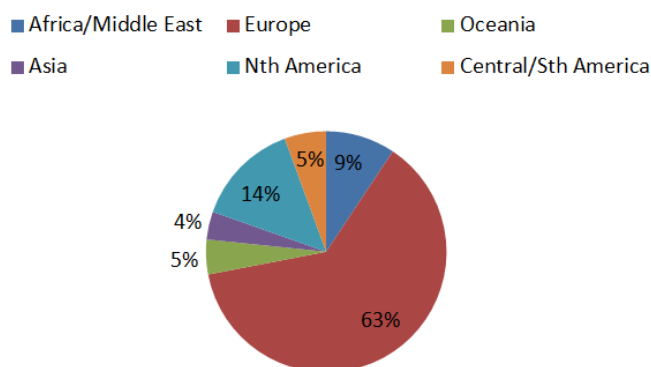
**INFOGRAPHIC 1: RESPONDENT PROFILE (GEOGRAPHIC)**



In the 14 years since 2002, when membership was first formalised, the Conference has grown from 54 to 114 members. This doubling in size reflects an expansion in data protection laws around the world.<sup>1</sup> However, membership is not evenly spread across all regions as can be seen from following chart derived from the Conference's [membership list](#).

**FIGURE 2: CONFERENCE MEMBERSHIP PROFILE (114 MEMBERS)**

### ICDPPC membership by region



<sup>1</sup> See: Greenleaf, Graham, Global Data Privacy Laws 2017: 120 National Data Privacy Laws, Including Indonesia and Turkey (January 30, 2017). (2017) 145 Privacy Laws & Business International Report, 10-13; UNSW Law Research Paper No. 45. Available at SSRN: <https://ssrn.com/abstract=2993035>

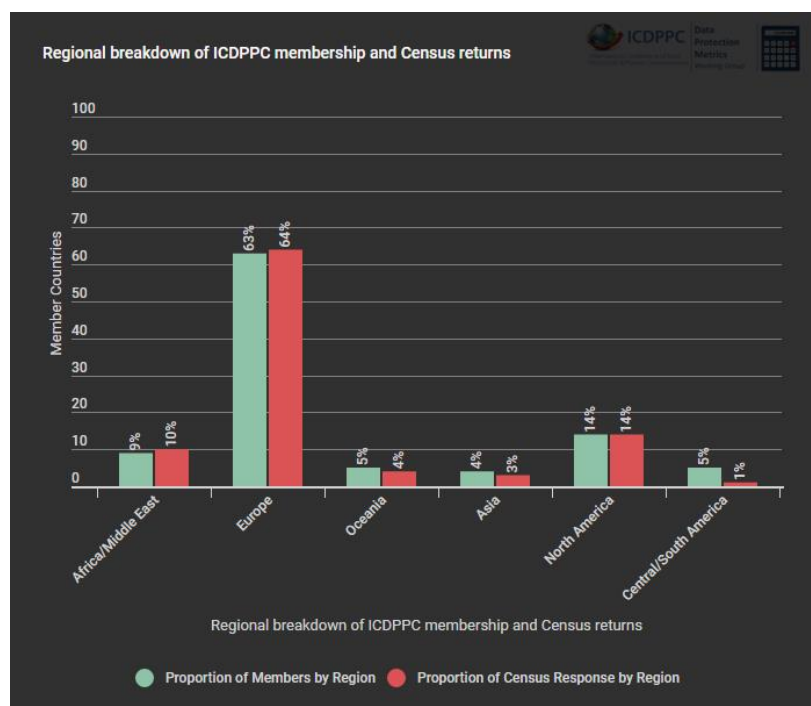
We can compare the response rate in each region to the membership profile.

**TABLE 1: REGIONAL BREAKDOWN OF ICDPPC MEMBERSHIP AND CENSUS RETURNS COMPARED (85 RESPONDENTS)**

Region	Proportion of ICDPPC members by region	Proportion of Census responses by region
Africa/Middle East	9%	10%
Europe	63%	64%
Oceania	5%	4%
Asia	4%	3%
North America	14%	14%
Central/South America	5%	1%

The response rate is fairly closely matched to the membership profile. The one exception is the low response rate from Central and South American members.

**INFOGRAPHIC 2: REGIONAL BREAKDOWN: MEMBERS/RESPONDENTS**

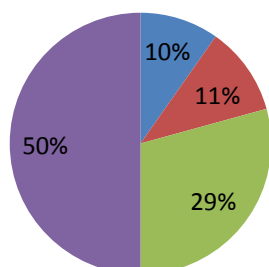


### Decade of establishment

Authorities that responded to the survey were established in the following periods:

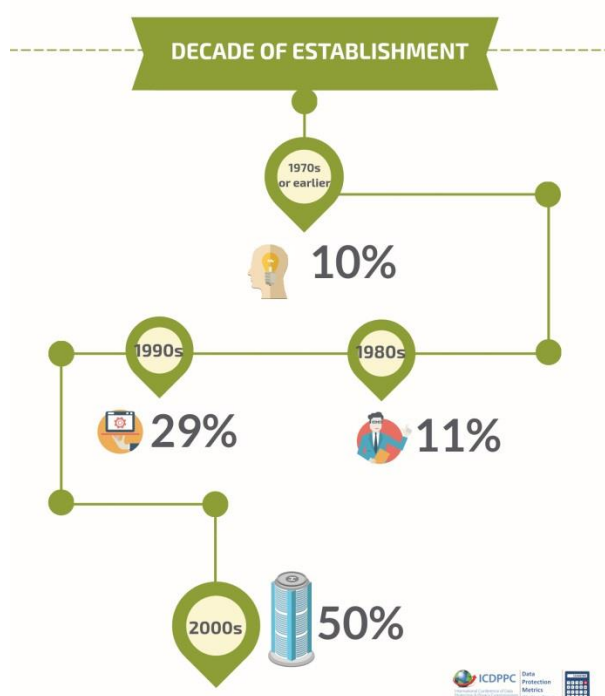
**FIGURE 3: THE AUTHORITY WAS ESTABLISHED IN WHICH DECADE? (85 RESPONDENTS)<sup>2</sup>**

■ 1970s or earlier ■ 1980s ■ 1990s ■ 2000s



Half the respondent authorities were established in the last 17 years with the balance set up last century. The graph illustrates a remarkable growth rate since the 1990s. Notwithstanding that some authorities have been around for 40 years, the global privacy regulatory community overall might be described as being institutionally youthful.

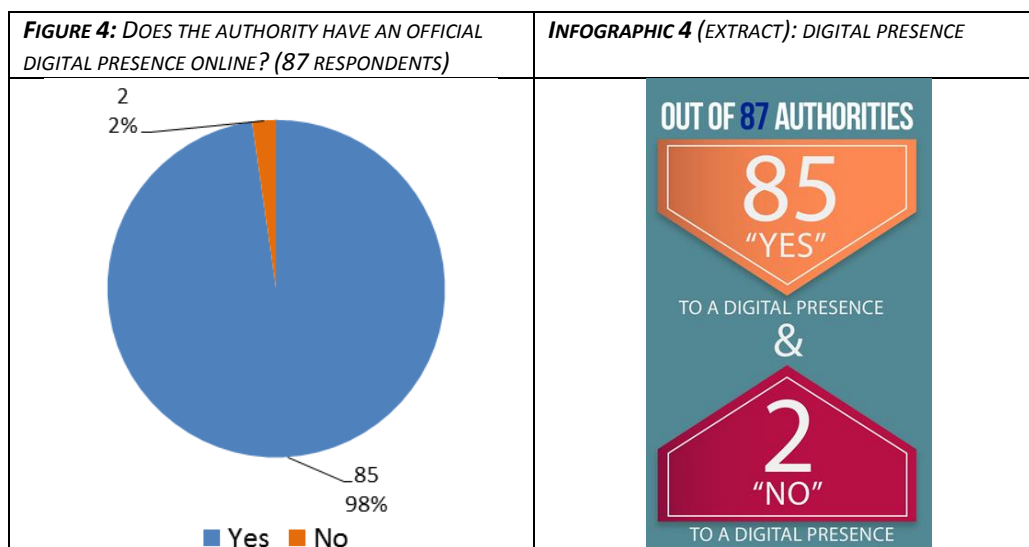
**INFOGRAPHIC 3: ESTABLISHMENT PATHWAY**







<sup>2</sup> Although the question asked which 'decade' of establishment, obviously '1970s or earlier' and '2000s' covers a period longer than a decade.

### Official online digital presence

Authorities overwhelmingly confirmed that they are present online.<sup>3</sup>



When asked about a presence in social media, the figures dropped substantially:

TABLE 2: WEBSITE AND SOCIAL MEDIA PRESENCE (80 RESPONSES) <sup>4</sup>				
		No of authorities having:		No of authority accounts: <sup>5</sup>
Website		80	100%	86
Twitter		29	36%	33
Facebook		25	31%	28
YouTube channel		22	28%	22
LinkedIn		10	13%	10
Other		1	1%	1

While a website is a standard tool for all privacy and data protection authorities, only a minority have a presence in social media. Most of that is concentrated on just 3 platforms: Twitter, Facebook and YouTube. Authorities sometimes had multiple websites and Twitter/Facebook accounts.

The ICDPPC Secretariat has built a '[Members Online](#)' directory listing all websites and social media accounts given in census returns. This was the first major deliverable from the census.

<sup>3</sup> Two authorities reported not having a website. One was an authority based within an international organisation that has no website of its own. The other answered the question in error as the Secretariat has subsequently established that it indeed has a website.

<sup>4</sup> Authorities that answered 'yes' to the question 'does your authority have an official digital presence online' were asked to provide details of the accounts. Although 87 answered yes to the former question only 80 went on to provide the requested details. The percentages are calculated against the 80 respondents.

<sup>5</sup> The figures for the number of accounts are sourced from the census data but have been corrected for known errors (e.g. removing

**INFOGRAPHIC 5: DIGITAL PRESENCE OF ICDPPC MEMBERS**

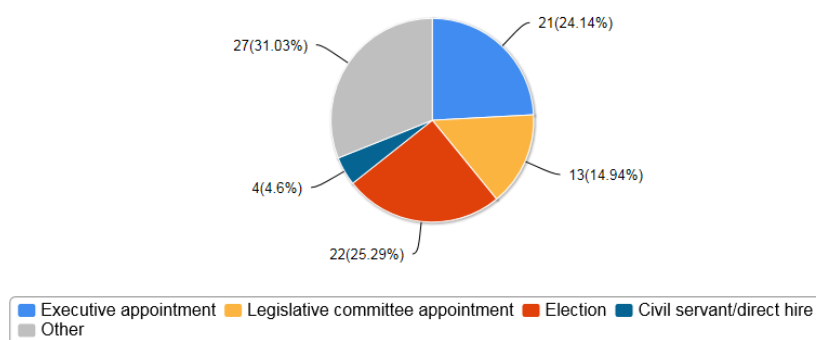
**Annual reports**

Nearly all authorities (87 out of 88 respondents) reported that they published an annual report. Most publish their annual report online (only 6 reporting that they did not). Respondents were asked to give web links to their latest report. A list of links to annual reports is set out at Appendix 5.

**Appointment of head of authority**

Authorities were asked the process for appointing the head of their authority. The diverse methods of appointment illustrate the considerable variations amongst member jurisdictions in one aspect of the constitutional arrangements governing establishment of independent authorities.

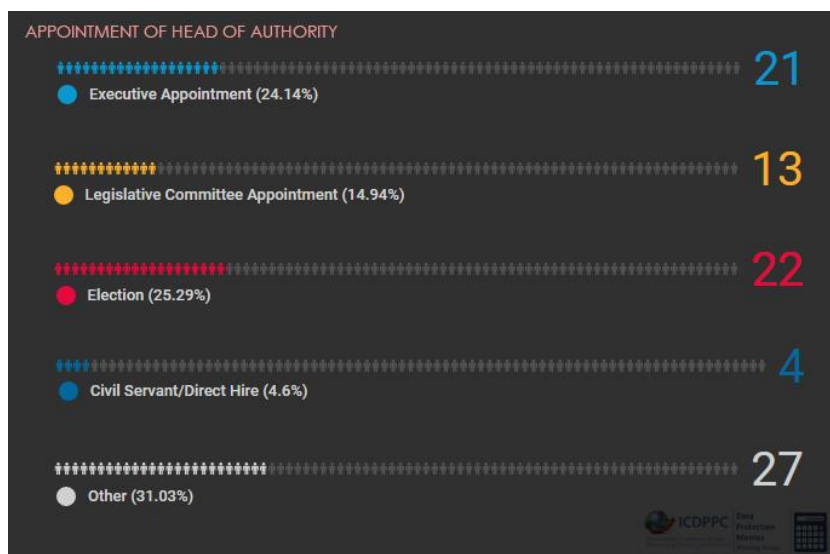
**FIGURE 5: HOW IS THE HEAD OF THE AUTHORITY APPOINTED? (87 RESPONDENTS)**





No further information is available on the relatively large ‘other’ category (31%).<sup>6</sup>

**INFOGRAPHIC 6: APPOINTMENT OF HEAD OF AUTHORITY**



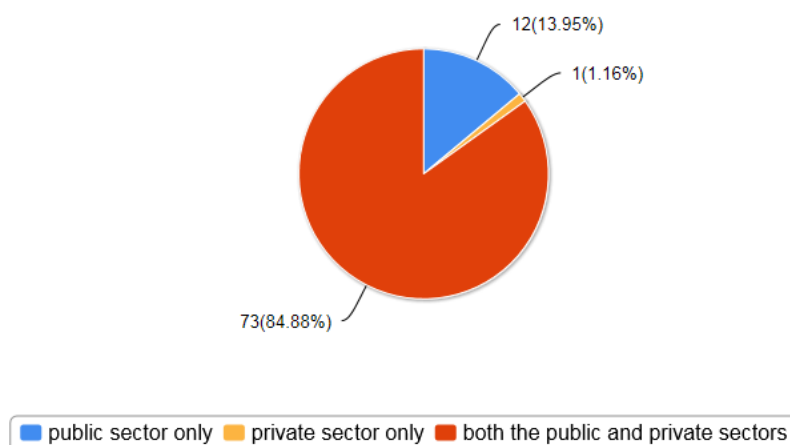
<sup>6</sup> The wording of the question is based upon IAPP surveys undertaken in 2010 and [2011](#) which also reported a large number of unclassified appointment processes at 29% and 39% respectively.

## Part B: Data protection law, jurisdiction and exemptions

### ***Sectoral coverage***

Authorities were asked about the breadth of their jurisdiction and most confirmed that they supervised both the public and private sectors.

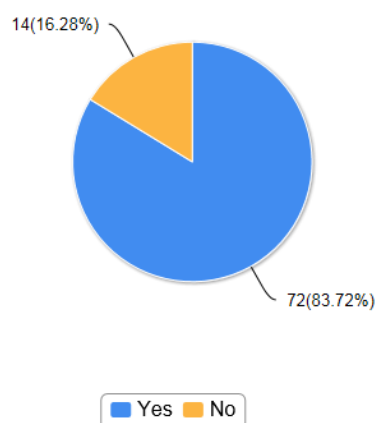
**FIGURE 6:** DOES THE AUTHORITY OVERSEE PRIVACY PROTECTION PRACTICES BY: (86 RESPONDENTS)



### ***Constitutional references***

The Census asked whether respondents' national constitutions also include a reference to data protection or privacy. The results showed a surprising large proportion of constitutional references:

**FIGURE 7:** IN ADDITION TO A DATA PROTECTION OR PRIVACY LAW, DOES YOUR COUNTRY'S CONSTITUTION REFER TO DATA PROTECTION OR PRIVACY? (86 RESPONDENTS)

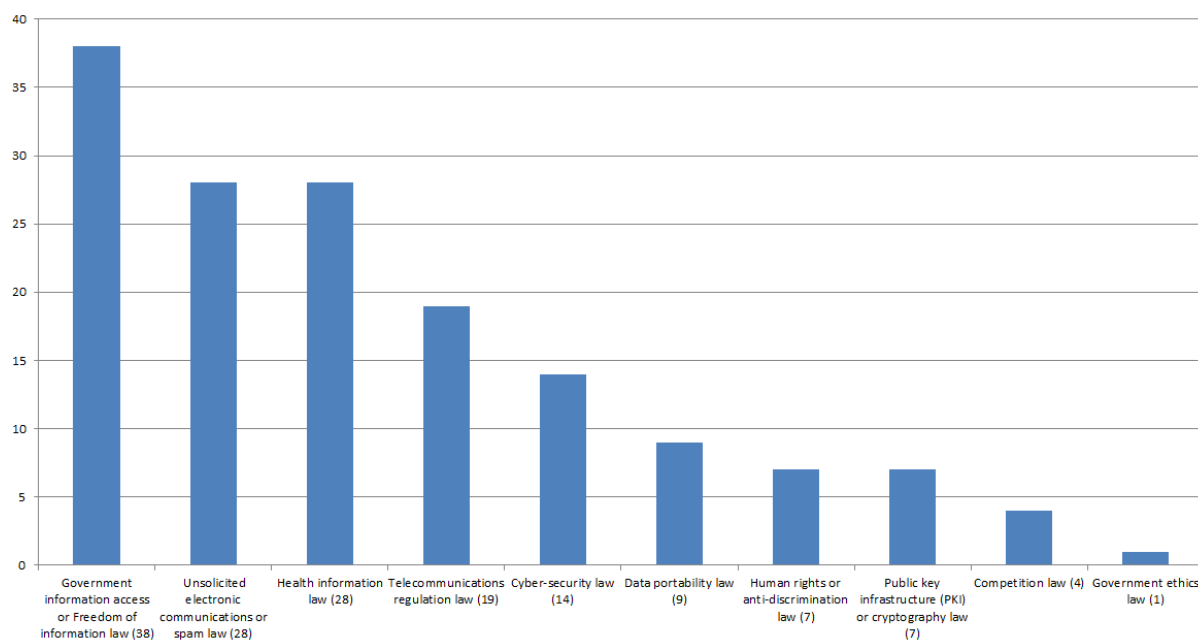


The ICDPPC Secretariat has uploaded a [list of links](#) to constitutional provisions as a resource for members, the public and researchers.

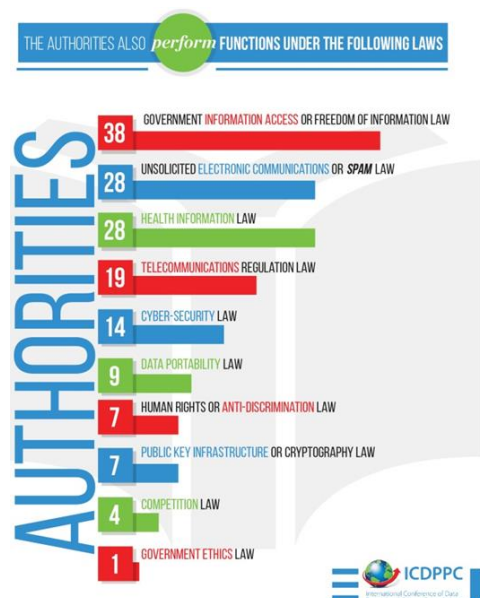
### Additional functions under laws

The 'data protection authority' model is quintessentially a multi-faceted regulator inherently possessing in various combinations the roles of ombudsman, auditor, consultant, educator, negotiator, policy adviser and enforcer.<sup>7</sup> This versatile regulatory form is amenable to performing complementary statutory roles. The Census explored the additional statutory functions that governments had placed with authorities in addition to their primary role under a data protection or privacy law.

**FIGURE 8:** IN ADDITION TO ROLES UNDER A DATA PROTECTION OR PRIVACY LAW, DOES THE AUTHORITY PERFORM ANY FUNCTIONS UNDER THE FOLLOWING TYPES OF INFORMATION, RIGHTS OR ACCOUNTABILITY LAWS? (87 RESPONDENTS)



### INFOGRAPHIC 7 (EXTRACT): ADDITIONAL FUNCTIONS



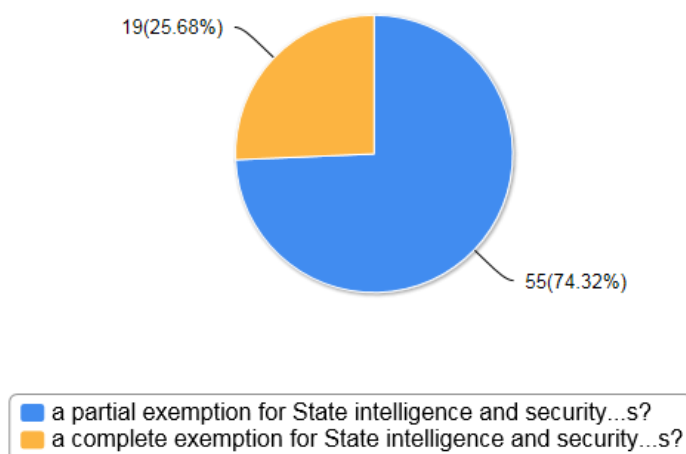
<sup>7</sup> This characterisation of DPA roles taken from: Bennett and Raab, *The Governance of Privacy*, 2003.

**TABLE 3:** ADDITIONAL FUNCTIONS UNDERTAKEN BY AUTHORITIES

<b>Additional functions undertaken by 1-11 Authorities</b> (<10% of ICDPPC membership)	Ethics (1), competition (4), discrimination (7), PKI (7), data portability (9)
<b>Additional functions undertaken by 12+ Authorities</b> (> 10% of ICDPPC membership)	Cyber security (14), telecommunications (19), spam (28), health information (28), FOI (38)

### Exemptions

The closed session of the 37<sup>th</sup> Conference featured an in-depth discussion of data protection oversight of intelligence and security agencies.<sup>8</sup> It was noted in that discussion that member authorities differed in their scope of jurisdiction. To improve understanding in these issues the Census asked whether authorities' domestic law contained a partial or complete exemption for intelligence and security agencies. Three-quarters of the privacy and data protection laws were confirmed to have at least partial application to State intelligence and security agencies.

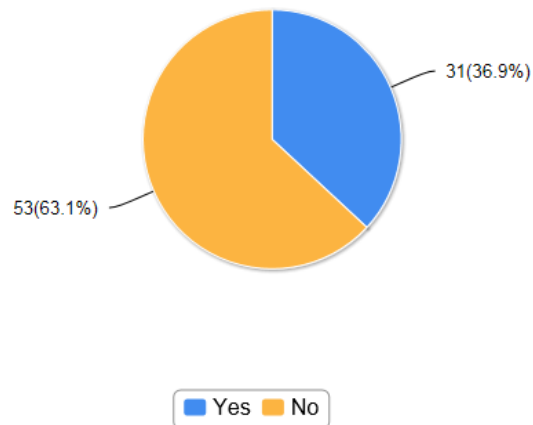
**FIGURE 9:** DOES YOUR DATA PROTECTION OR PRIVACY LAW CONTAIN? (74 RESPONDENTS)

### Law reform

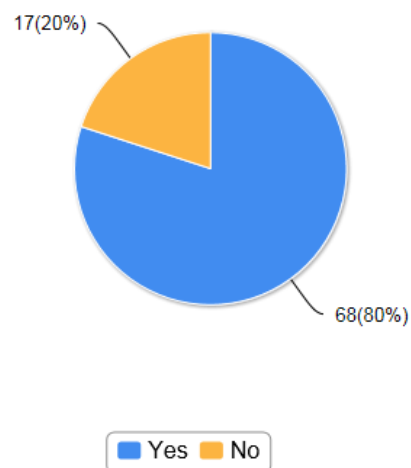
Authorities were asked both whether their data protection or privacy law had recently been revised and also if it was currently being revised.

<sup>8</sup> see [Communiqué on Data protection oversight of security and intelligence: The role of Data Protection Authorities in a changing society.](#)

**FIGURE 10:** HAS YOUR DATA PROTECTION OR PRIVACY LAW BEEN REVISED IN THE LAST 3 YEARS? (84 RESPONDENTS)



**FIGURE 11:** IS YOUR DATA PROTECTION OR PRIVACY LAW CURRENTLY BEING REVISED? (85 RESPONDENTS)

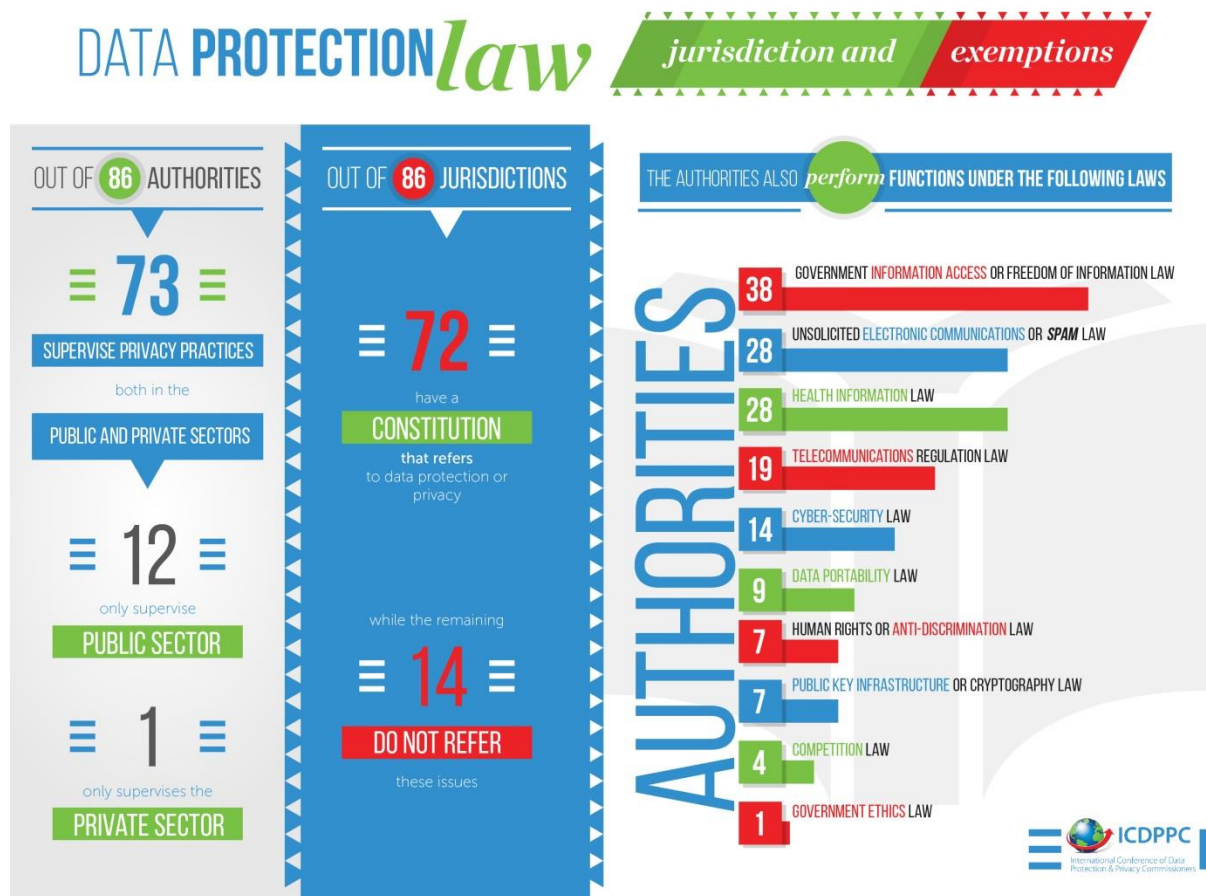


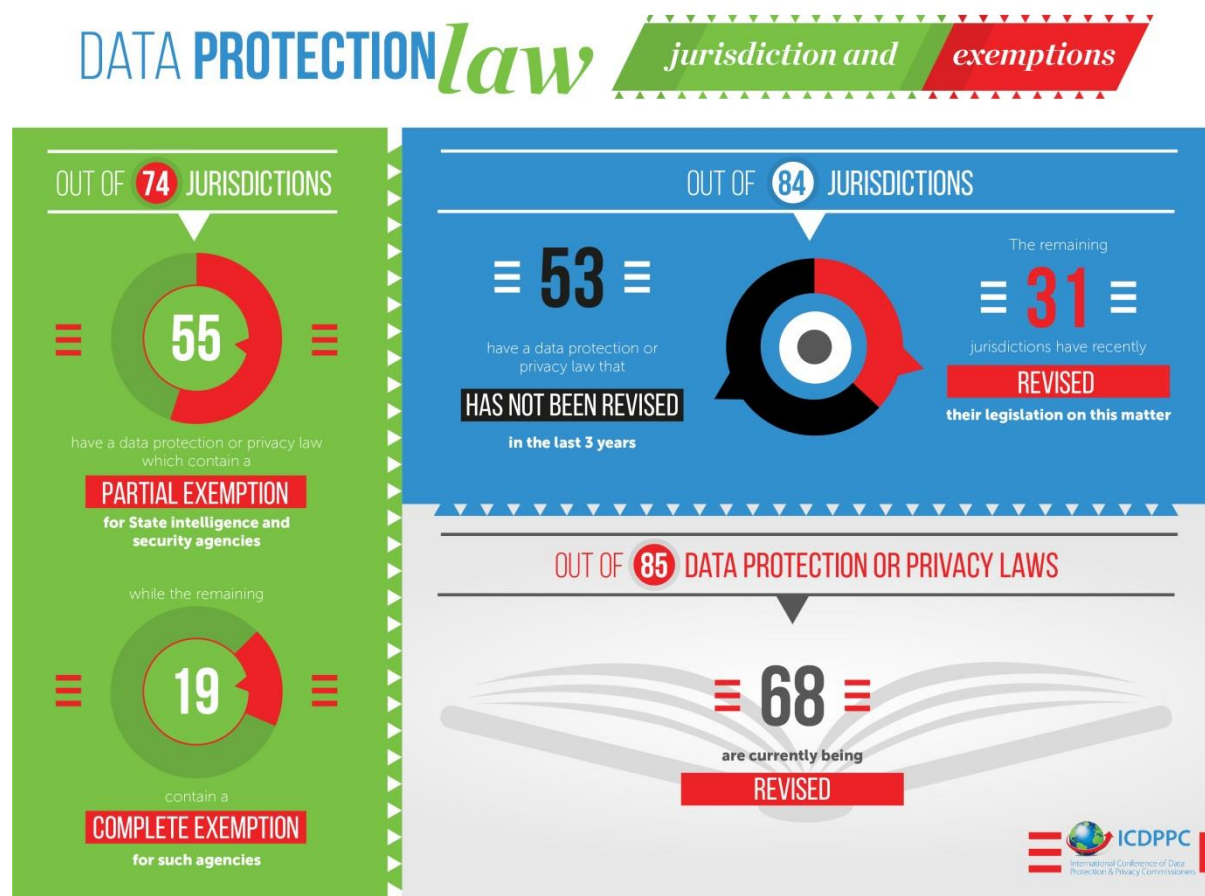
Although we do not have benchmark figures with which to compare these results, 80% nonetheless seems an extraordinarily high proportion of laws to be under review at the same time. That is especially so given that the preceding question revealed that a third of laws have recently been revised.

**INFOGRAPHIC 8 (EXTRACT):** LAWS BEING REVISED



INFOGRAPHIC 9: JURISDICTION AND EXEMPTIONS



**INFOGRAPHIC 10: JURISDICTION AND EXEMPTIONS**

## Part C: Authority's funding and resources

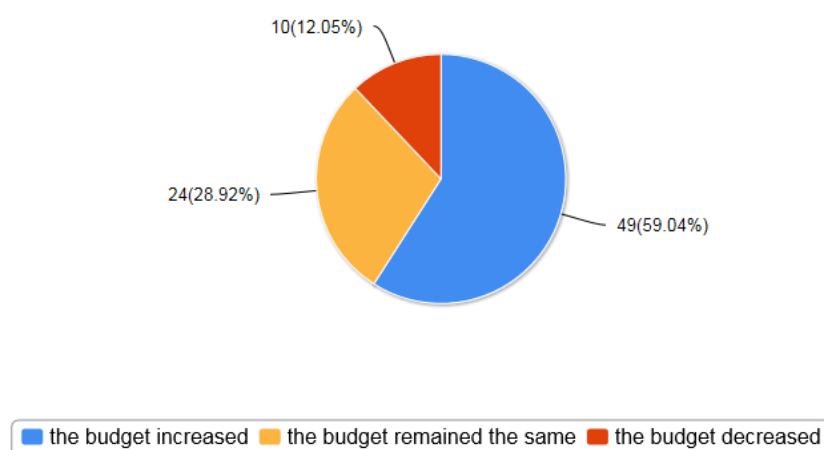
### Total income

The ICDPPC Census gathered detailed information about authorities' total income in local currency.

### Change in total budget

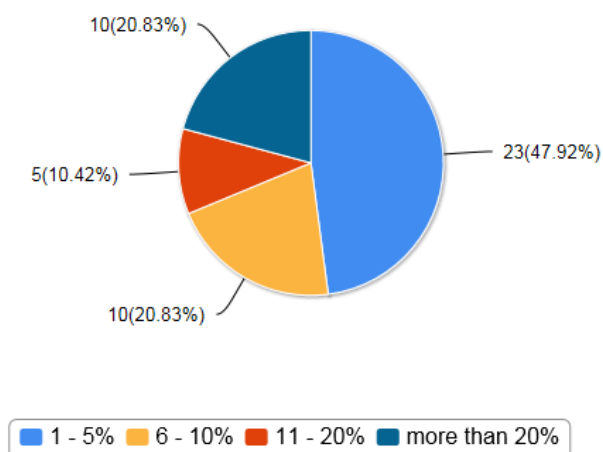
Authorities were asked how their budget compared to the previous year. Nearly 60% reported an increase, perhaps reflecting the increased regulatory challenges in the digital age or, in some cases, broadened responsibilities flowing from law reform.

**FIGURE 12:** HOW DOES THE AUTHORITY'S TOTAL BUDGET COMPARE TO THE PREVIOUS YEAR? (83 RESPONDENTS)



When asked about the size of any increases (within several bands), 30% of those with increased funding reported an increase of more than 10%.

**FIGURE 13:** IF THE AUTHORITY'S BUDGET INCREASED FROM THE PREVIOUS YEAR, BY WHAT PERCENTAGE DID IT INCREASE? (48 RESPONDENTS)

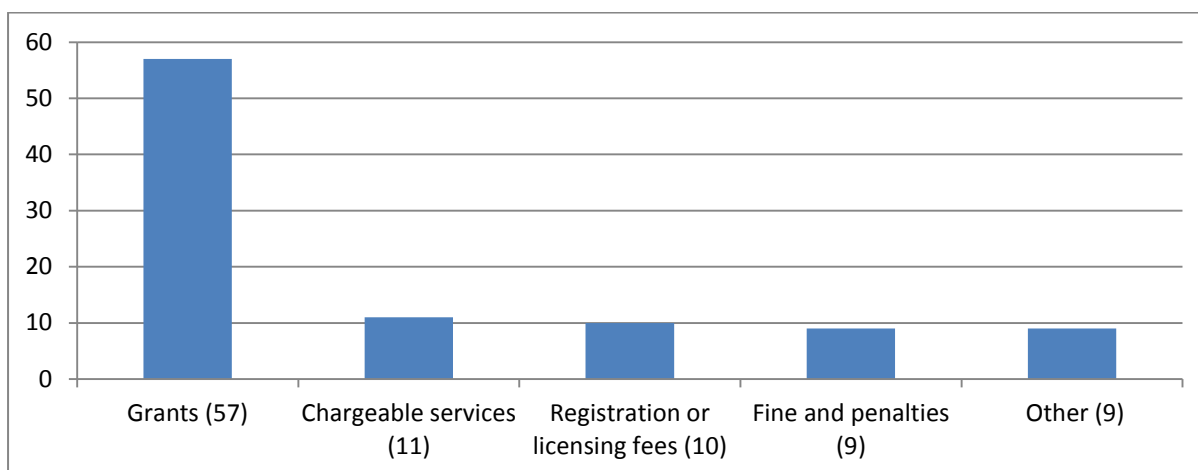


### Source of funds

Authorities were asked where their funding came from.

**FIGURE 14:** DOES THE AUTHORITY'S FUNDING COMING FROM ANY OF THESE SOURCES? (57 RESPONDENTS)





### Staff numbers

The ICDPPC Census gathered precise staffing information at each authority. This was measured in 'full time equivalent' (FTE) employees.

There was a wide spread of staff numbers ranging from 0.45 FTE to 1144 FTE:

- At smaller end of the scale the 3 smallest DPAs had 0.45, 0.55 and 1.5 staff respectively with 9 offices having 5 or fewer staff;
- At the larger end of the scale, there was a huge gap in size between the 4 largest authorities, the differences alone dwarfing the majority of member authorities.

**TABLE 4: LARGEST AUTHORITIES BY FTEs (81 RESPONDENTS)**

4 <sup>th</sup> Largest	3 <sup>rd</sup> largest	2 <sup>nd</sup> largest	Largest
195	393	709	1144

The census form instructed that 'If the authority is a unit within a much larger public body, please answer these questions only in relation to your unit'. However, there were some authorities with a wide regulatory mandate that are not structured to have a separate data protection unit and so the staffing figures given were for the body as a whole. The results for those authorities include FTEs who do undertake any data protection work. The very largest authority with 1144 staff is a case in point. The focus on total staff employed, rather than those working on privacy, means that the results in such cases do not closely correspond to the resource that is devoted to data protection regulation.

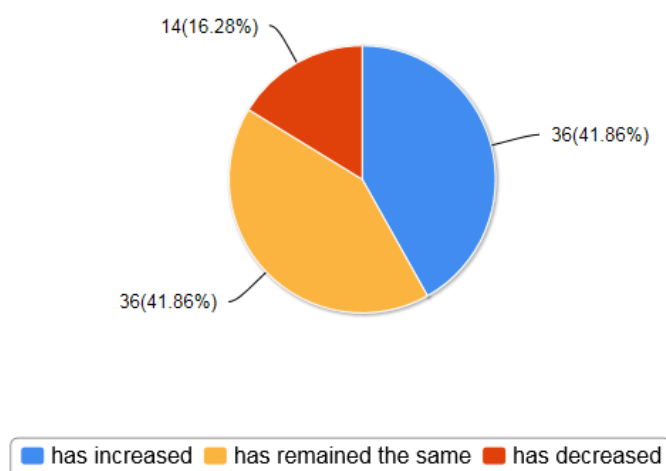
Given the point just made (which affects the largest authority) and the very wide spread amongst the larger authorities; a median figure better represents a 'typical' authority size than would an average that would be distorted by the 1144 figure. Accordingly, no average is given.

**TABLE 5: HOW MANY STAFF ARE EMPLOYED BY THE AUTHORITY? (FULL TIME EQUIVALENT EMPLOYEES)? (86 RESPONDENTS)**

Median number of staff	29
------------------------	----

Compared to the previous year, more authorities have grown, rather than reduced, in staffing.

**FIGURE 15:** HOW DOES THE AUTHORITY'S TOTAL NUMBER OF STAFF COMPARE TO THE PREVIOUS YEAR? (86 RESPONDENTS)



In response to another question about the geographic distribution staff, it was confirmed that only about 11% of authorities worked out of more than one location:<sup>9</sup>

**TABLE 6:** Geographic distribution of staff between offices (86 RESPONSES)

One office: all staff work at the same location	77	89.5%
Two offices: staff are split between two offices	7	8.2%
More than two offices: Staff work at 3 or more offices	2	2.3%

<sup>9</sup> The wording of the question is based upon IAPP surveys undertaken in in [2009](#) and [2011](#) which also found DPAs operating out of multiple or regional offices to be a rarity.

**TABLE 7: WHAT MIGHT A TYPICAL PRIVACY OR DATA PROTECTION AUTHORITY LOOK LIKE?**

Characteristic	Authorities in this class
<b>A national or subnational authority</b> Only 5 of the Conference's members are supranational authorities	109
<b>An authority overseeing both the public and private sectors</b> 85% of authorities have this broad jurisdiction	About 100 authorities
<b>Established after 1990</b> 79% of authorities were established in the 1990s or 2000s	About 90 authorities
<b>Principal roles include handling complaints, auditing/inspection, public outreach, compliance, investigation and enforcement</b> These were the 4 top ranked roles out of 8 surveyed	Most ICDPPC members
<b>About 29 staff which is the same, or more, than the previous year</b> The median number of staff was 25 FTE. Staffing at 84% of authorities remained the same or increased in the last year.	Authorities with staffing close to the median figure include: <ul style="list-style-type: none"> <li>• Hungary</li> <li>• Finland</li> <li>• Brandenburg</li> <li>• Rhineland-Palatinate</li> </ul>
<b>Funding of about €1.9 million, slightly up on the previous year</b> The median income for authorities was €1.9 million. Most authorities (59%) saw an increase in their funding although typically this was no more than 5%.	Authorities with staffing close to the median figure include: <ul style="list-style-type: none"> <li>• Hungary</li> <li>• Finland</li> <li>• Brandenburg</li> <li>• Zurich Canton</li> </ul>
<b>A role under a mandatory breach notification law yet last year received fewer than 10 notifications</b> Between 55-80% of authorities appear to have a role in a mandatory notification law (depending how the question is posed). 38 of 66 authorities received fewer than 10 notifications last year.	38 authorities

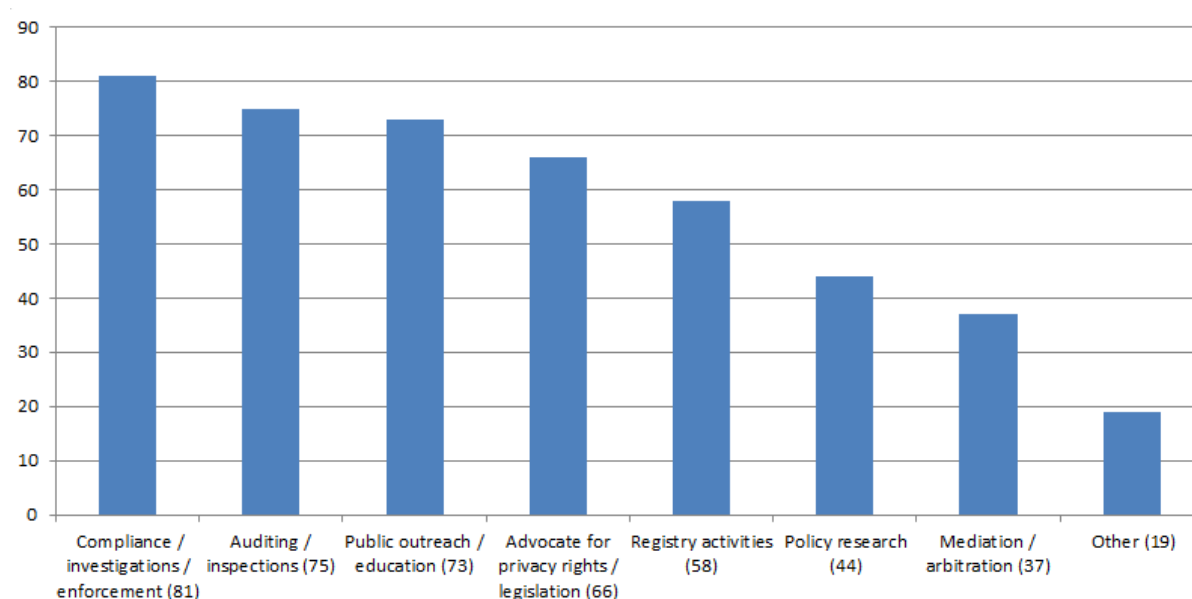
*Does this look like your authority?*

## Part D: Authority's enforcement powers, case handling and reporting

### Principal roles

Not surprisingly, compliance/investigation is a principal roles for nearly all authorities although less than half undertook mediation/arbitration.

**FIGURE 16: WHAT ARE THE PRINCIPAL ROLES PERFORMED BY THE AUTHORITY UNDER THE PRIVACY OR DATA PROTECTION LAW? (87 RESPONDENTS)**



### Cases accepted for investigation

Authorities were asked how many cases they accepted for investigation in 2016. Most respondents provided an answer but further analysis is needed before useful statistics could be generated. It appears that the results are not easily comparable as comments from respondents suggest that authorities had interpreted the question differently.

### Powers in individual cases

Most authorities have the power in individual cases to make binding decisions while the option to refer the case to an authority with decision making power is an option for many.

**TABLE 8: DOES THE AUTHORITY: (86 RESPONDENTS)**

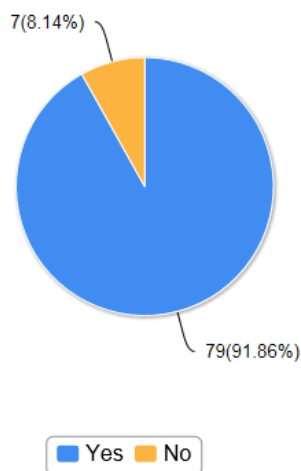
	Yes	No
Have the power to make decisions in individual cases?	69 (80%)	17 (19.5%)
Have the power to make recommendations in individual cases?	88 (93%)	4 (4.5%)
Have the power to refer the case to an authority with decision making power in individual cases?	64 (74%)	19 (22%)

### Appeals

The ability for individuals or organisations to appeal the decisions or recommendations of a privacy

or data protection authority to another body is an important legal and procedural safeguard. Nearly 92% of authorities confirmed the existence of appeal rights.

**FIGURE 17:** ARE THE DECISIONS OR RECOMMENDATIONS OF THE AUTHORITY SUBJECT TO APPEAL TO ANOTHER BODY? (86 RESPONDENTS)

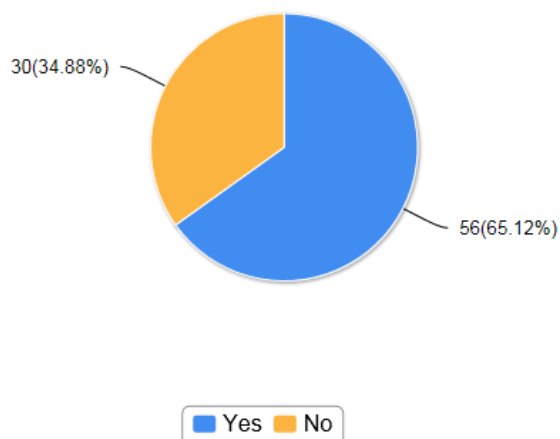


Responses regarding the number of cases on appeal were collected and are available for further analysis but are not summarised here.

### Case reporting

Most authorities confirmed that they report publicly on cases they handle:

**FIGURE 18:** DOES THE AUTHORITY REPORT PUBLICLY ON CASES IT HAS HANDLED? (75 RESPONDENTS)



Follow up questions to the authorities that publicly reported on their cases were asked in relation to the assignment of citations and the uploading of cases to a central repositories.

These questions sought to test the extent to which member authorities have given effect to the [Resolution on Case Reporting](#) adopted at the 31<sup>st</sup> Conference. Such testing is an effort to give effect the Conference's [Strategic Plan 2016-18](#) which includes the goal to 'review resolutions adopted since 2003 to better understand whether resolution-making has been effective to date and to identify

room for improvement'. The census results suggest that there is room for improvement in case reporting practice.

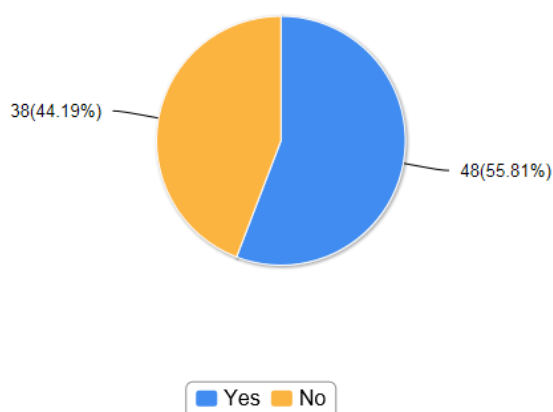
**TABLE 9: CASE REPORTING: CITATION AND DISSEMINATION PRACTICES (50 RESPONDENTS)**

Is a formal citation assigned to each case report?	Yes	28 (56%)
	No	22 (44%)
Are the case reports uploaded to a central repository (such as an online legal information institute)?	Yes	20 (40%)
	No	30 (60%)

### **Fines and penalties**

A majority of authorities confirmed that they imposed fines or penalties for a breach of the law:

**FIGURE 19: DOES THE AUTHORITY IMPOSE FINES OR PENALTIES FOR A BREACH OF THE DATA PROTECTION OR PRIVACY LAW? (86 RESPONDENTS)**



A supplementary question asked whether authorities kept the proceeds of fines – most did not.

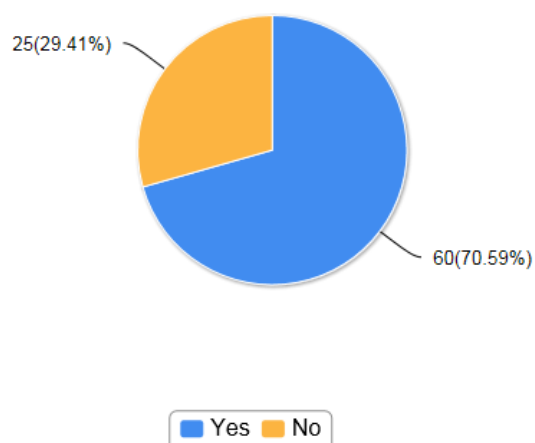
**TABLE 10: DOES THE AUTHORITY KEEP ANY OF THE FINE OR PENALTY? (47 RESPONDENTS)**

Yes	No
14 (29%)	34 (71%)

Authorities were asked if they ever publicly name organisations that had breached the privacy or data protection law and the majority confirmed that they did. This question explored an area of regulatory practice that had been evolving in recent years.<sup>10</sup>

<sup>10</sup> In particular the question follows up on the topic of a GPEN [workshop](#) held alongside the 36<sup>th</sup> Conference that focused upon the use of publicity as a regulatory compliance technique.

**FIGURE 20:** DOES THE AUTHORITY REPORT PUBLICLY ON CASES IT HAS HANDLED? (85 RESPONDENTS)



***Size of fines and number of organisations named***

The Census also posed questions about the largest size of fines imposed and the numbers of organisations named for breaching laws. The figures require further analysis and the results are not summarised here.

## Part E. Cross-border data flows, enforcement and cooperation

### Express provision for cross-border cooperation in domestic law

The Census asked authorities whether their privacy or data protection law included *express* provision for:

- Transfer of complaints to privacy enforcement authorities in other jurisdictions;
- Disclosure to authorities in other jurisdictions of information obtained in investigations;
- Assisting other authorities in cross-border investigations.

The absence of such express provision in law had been identified in policy work over the last decade as a potential hindrance to effective cross-border enforcement cooperation. With active modernisation of laws through law reform it is to be hoped that the number of laws expressly providing for cooperation will increase. The Census sought to provide a snapshot of the position in early 2017.

Generally the Census confirmed that most privacy and data protection laws did not, as yet, have *express* provision providing for direct cooperation with privacy enforcement authorities in other jurisdictions.

**TABLE 11:** DOES THE PRIVACY OR DATA PROTECTION LAW INCLUDE EXPRESS PROVISION FOR ANY OF THE FOLLOWING: (83 RESPONDENTS)

	Yes	No
Transfer of complaints to privacy enforcement authorities in other jurisdictions?	27 (32%)	57 (68%)
Disclosure to privacy enforcement authorities in other jurisdictions of information obtained in investigations?	24 (29%)	58 (70%)
Assisting other privacy enforcement authorities in cross-border investigations?	37 (45%)	46 (55%)

In addition the Census asked if there was any *express* barrier to cooperation in domestic laws in the form of a prohibition on providing information to other enforcement authorities. Reassuringly, most respondents confirmed that there was no express prohibition. However, 5 authorities reported that they did indeed face this barrier in their law.

**TABLE 12:** DOES THE PRIVACY OR DATA PROTECTION LAW INCLUDE EXPRESS PROVISION FOR THE FOLLOWING: (82 RESPONDENTS)

	Yes	No
A prohibition on providing information to other enforcement authorities?	5 (11%)	74 (89%)

In 2007 the OECD, following research and consultation, adopted the [Recommendation on Cross-border Cooperation in the Enforcement of Laws Protecting Privacy](#) which outlined desirable statutory enhancements to make laws more effective for cross-border cooperation. The responses to the

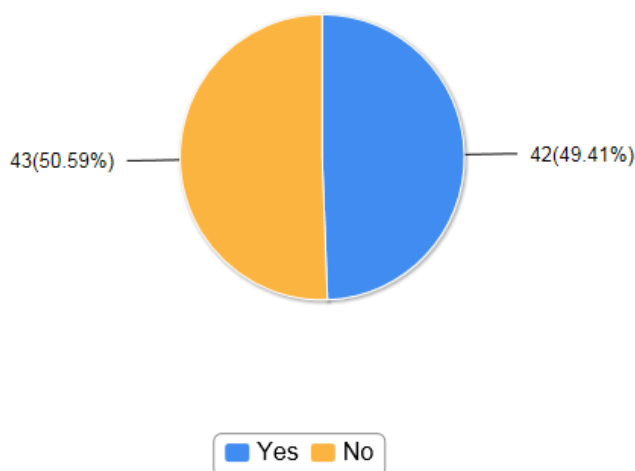


Census show that there is a long way to go before express provision is made in all members' domestic laws to facilitate enforcement cooperation across borders.

### **Formal recognition of privacy standards in other jurisdictions**

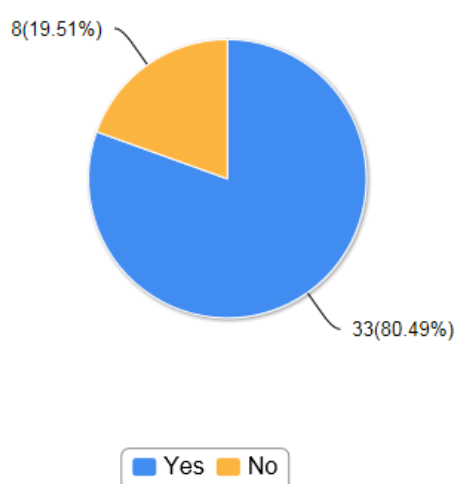
When authorities were asked whether their law established a process for judging the legal standards in other jurisdictions, the responses were roughly split down the middle:

**FIGURE 21:** DOES THE DATA PROTECTION OR PRIVACY LAW ESTABLISH A PROCESS FOR FORMALLY RECOGNISING OTHER JURISDICTIONS THAT HAVE LAWS ESTABLISHING COMPARABLE DATA PROTECTION STANDARDS? (85 RESPONDENTS)



Where those recognition processes existed, the authorities were usually involved in some way:

**FIGURE 22:** DOES THE AUTHORITY PERFORM ANY ROLE IN THAT RECOGNITION PROCESS? (41 RESPONDENTS)

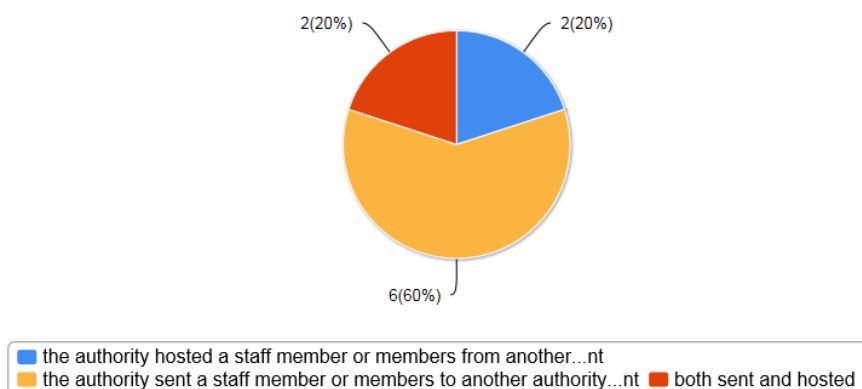


### **Secondments**

Most authorities (74 out of 84) reported did not participate in any secondment with another privacy enforcement authority in 2016.<sup>11</sup>

<sup>11</sup> Authorities looking for resources on arranging secondments may find the APPA Forum [Secondment Framework](#) helpful.

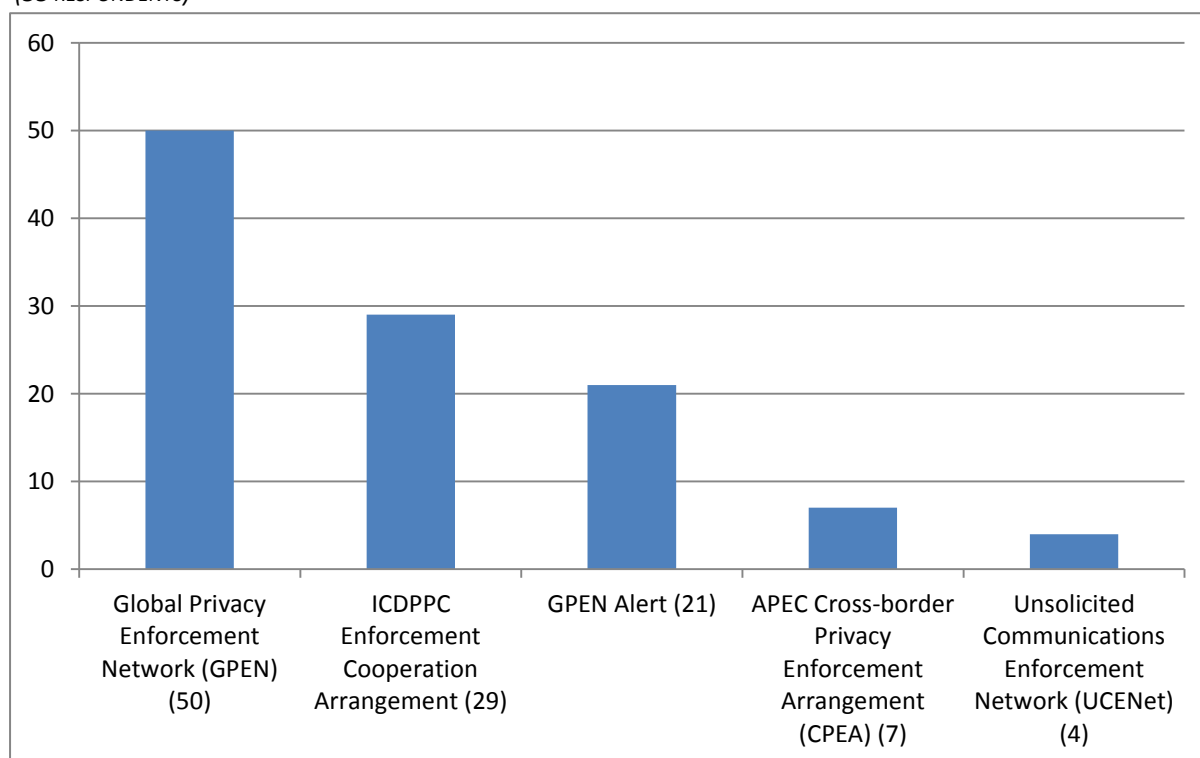
**FIGURE 23:** IN 2016, HAS THE AUTHORITY PARTICIPATED IN A SECONDMENT WITH ANOTHER PRIVACY ENFORCEMENT AUTHORITY?  
(84 RESPONDENTS)



### Enforcement cooperation networks and arrangements

Authorities were asked if they participated in any of 5 named enforcement cooperation networks or arrangements. Curiously, respondents seemed consistently to believe their level of engagement in enforcement networks was greater than the facts supported.<sup>12</sup>

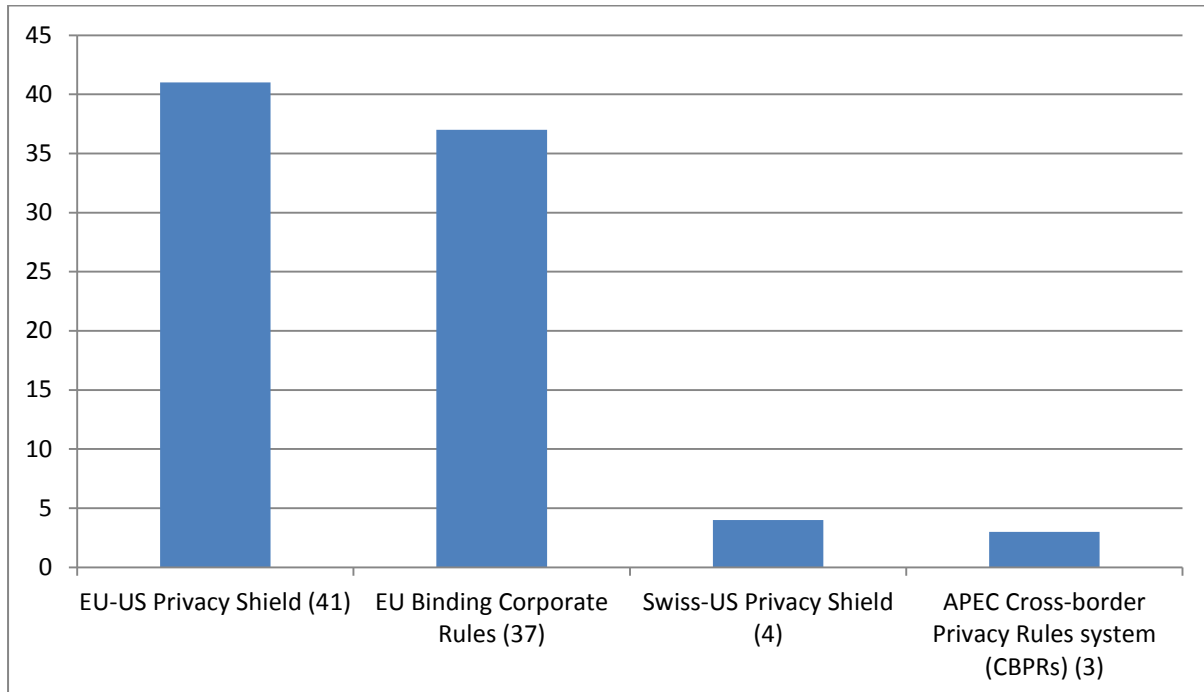
**FIGURE 24:** WHICH OF THESE ENFORCEMENT COOPERATION NETWORKS OR ARRANGEMENTS DOES THE AUTHORITY PARTICIPATE IN?  
(55 RESPONDENTS)



<sup>12</sup> While 29 respondents listed themselves as participants in the ICDPPC Enforcement Cooperation Arrangement less than half that number actually were at the time of the Census when only 12 authorities were participants: <https://icdppc.org/participation-in-the-conference/global-cross-border-enforcement-cooperation-arrangement-list-of-participants/> Similarly, while 21 respondents listed themselves as participating in GPEN Alert, a check of the GPEN website on 13 July 2017 records a total of only 10 participants. In relation to CPEA, 7 respondents listed themselves as participants whereas in fact only 6 ICDPPC members participated at the time of the Census: <https://www.apec.org/Groups/Committee-on-Trade-and-Investment/Electronic-Commerce-Steering-Group/Cross-border-Privacy-Enforcement-Arrangement.aspx>

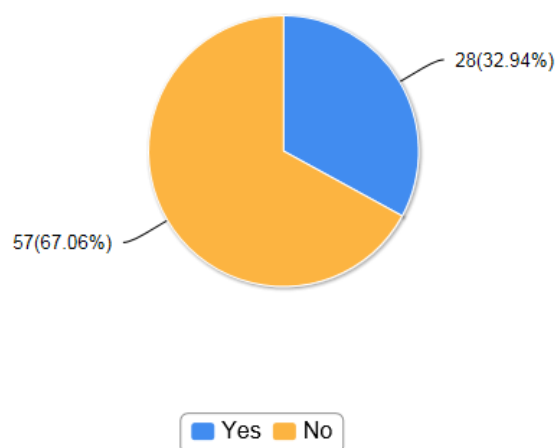
Authorities sometimes perform an enforcement role under supra-national arrangements, such as the following:

**FIGURE 25:** DOES THE AUTHORITY PERFORM AN ENFORCEMENT ROLE UNDER ANY OF THESE SUPRA-NATIONAL ARRANGEMENTS? (41 RESPONDENTS)



To complete the picture of enforcement arrangements authorities were asked about bilateral arrangements that they will have negotiated themselves.

**FIGURE 26:** DOES THE AUTHORITY HAVE ANY BILATERAL ARRANGEMENTS WITH THE PRIVACY ENFORCEMENT AUTHORITIES OF OTHER COUNTRIES TO CO-OPERATE IN THE ENFORCEMENT OF PRIVACY LAWS? (85 RESPONDENTS)

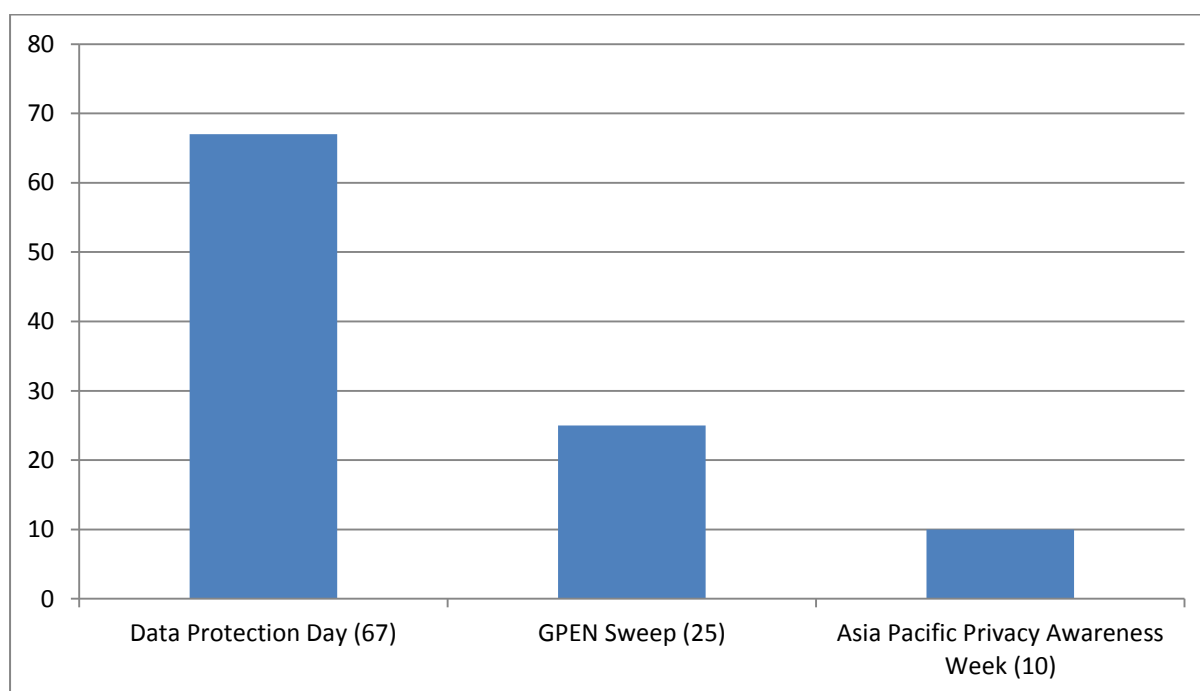


### ***Coordinated awareness raising efforts across borders***

One of the Conference's [strategic priorities](#) is 'Strengthening Our Connections, Working With Partners' which includes developing supportive connections between networks, exploring ways in which ICDPPC and regional forums of DPAs can better connect and finding new and better ways to collaborate.

Authorities were asked whether they had been involved with any of 3 named efforts, involving authorities from many countries, to raise awareness of privacy and data protection. The 3 examples of trans-national awareness raising efforts were not ICDPPC-led<sup>13</sup> but many members participate.

**FIGURE 27:** *IN 2016, HAS YOUR OFFICE BEEN INVOLVED WITH THE FOLLOWING COORDINATED EFFORTS, INVOLVING AUTHORITIES FROM MANY COUNTRIES, TO RAISE AWARENESS OF PRIVACY AND DATA PROTECTION? (73 RESPONDENTS)*

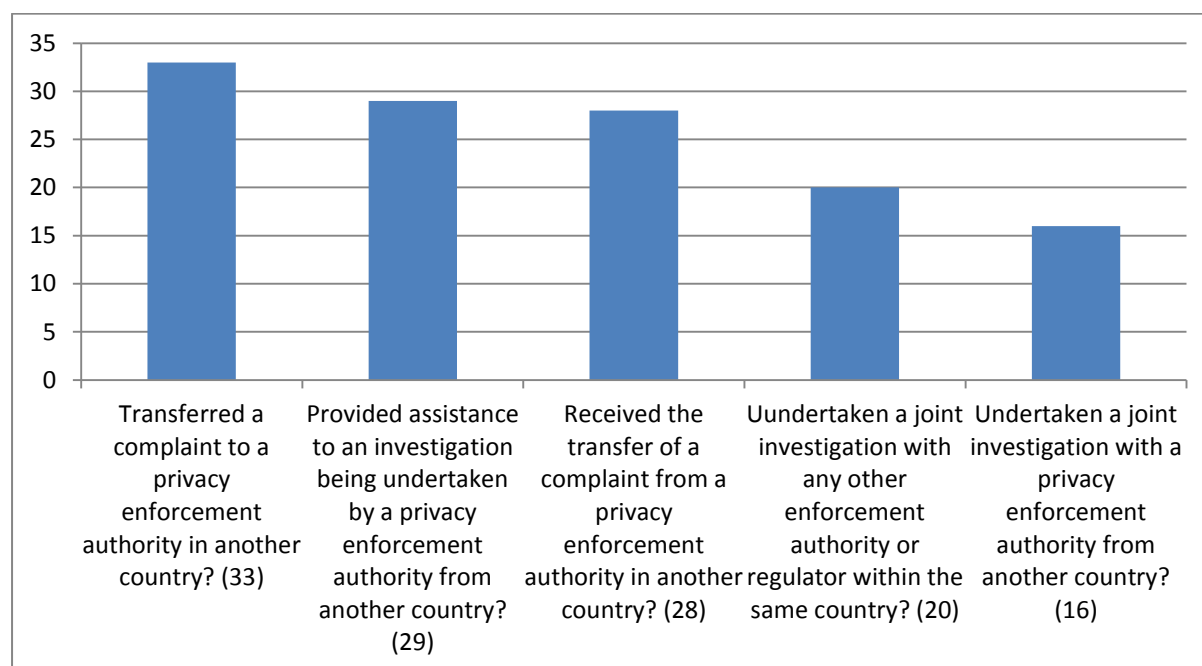


### ***Cross-border enforcement cooperation***

The Census asked whether authorities had in 2016 been involved in any of the typical incidents of cross-border enforcement cooperation.

<sup>13</sup> Data Protection Day was initiated by the Council of Europe and occurs each year in January. Privacy Awareness Week is coordinated by the APPA Forum each May. The GPEN Sweep has been led by the Global Privacy Enforcement Network each year since 2014.

**FIGURE 28:** IN 2016, HAS THE AUTHORITY? (54 RESPONDENTS)



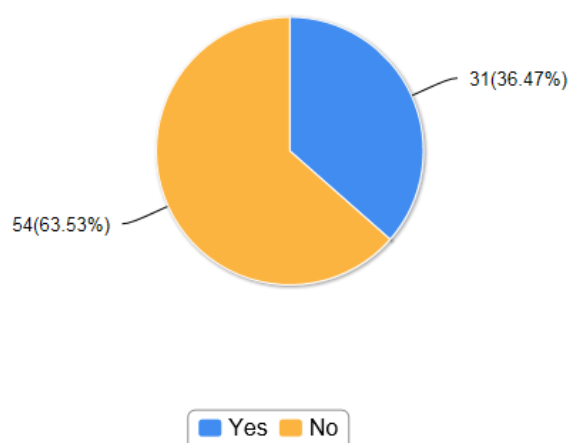
## Part F. Breach notification

A series of questions were asked in relation to breach notification. The reasonably large number of questions on the same subject, and their slightly overlapping nature in places, can be explained by three features:

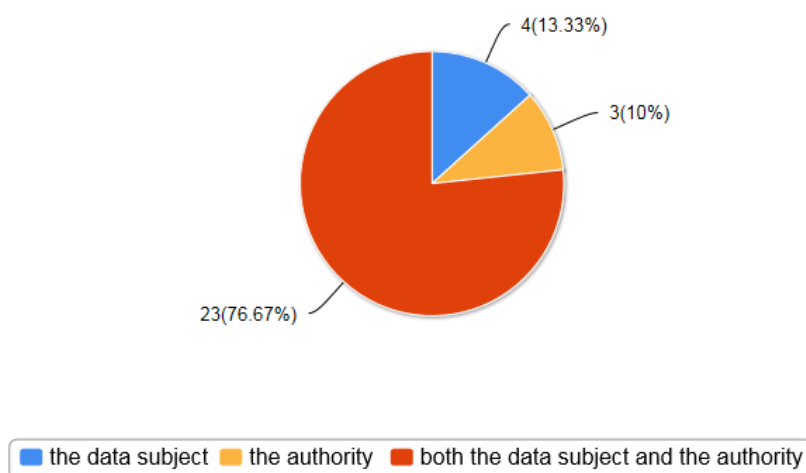
- Some of the questions mirror questions previously asked in other surveys allowing these answers to be added or compared to those earlier results.<sup>14</sup>
- Many of the questions needed to be repeated to distinguish between voluntary and mandatory schemes.
- The topic is the focus of concurrent research work being undertaken by OECD and it is hoped that the ICDPPC Census can contribute to extend the breadth of that other work.

### Voluntary guidelines

**FIGURE 29:** ARE THERE ANY VOLUNTARY BREACH NOTIFICATION GUIDELINES ISSUED BY THE AUTHORITY IN YOUR JURISDICTION? (85 RESPONDENTS)



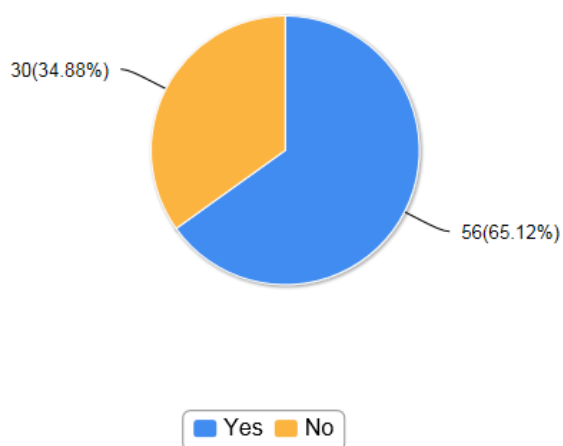
**FIGURE 30:** DO THEY RECOMMEND NOTIFICATION TO? (30 RESPONDENTS)



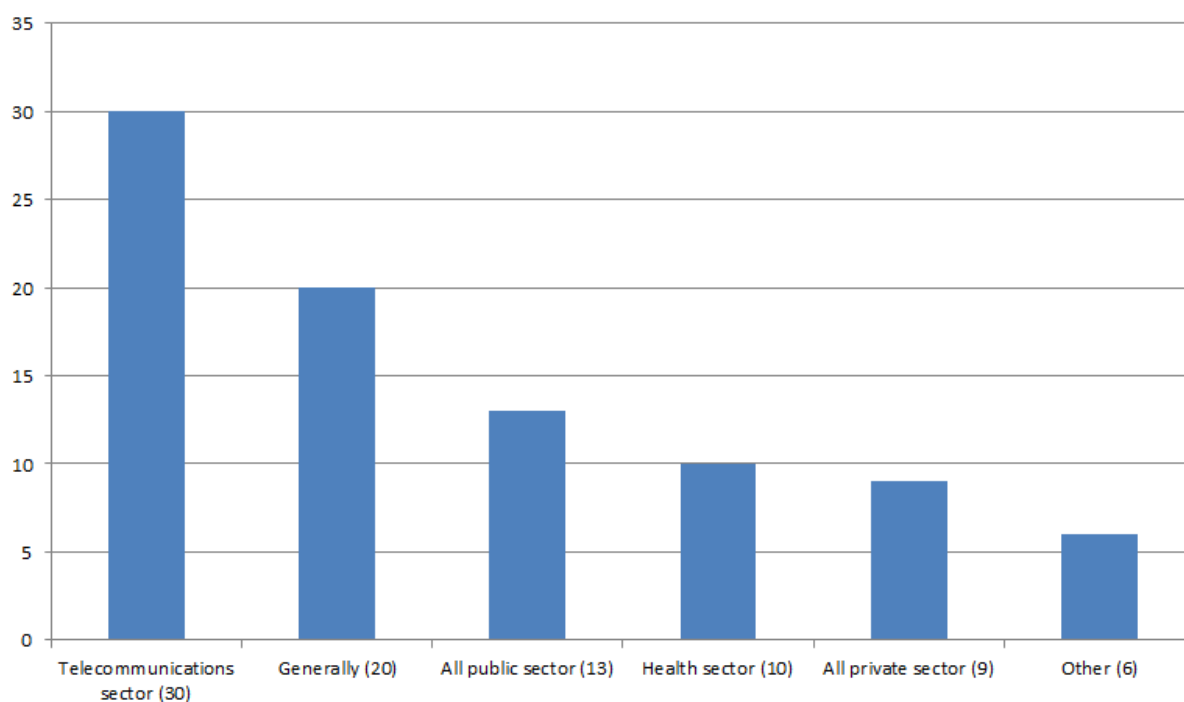
<sup>14</sup> Namely: surveys undertaken by OECD and IAPP.

### Mandatory requirements

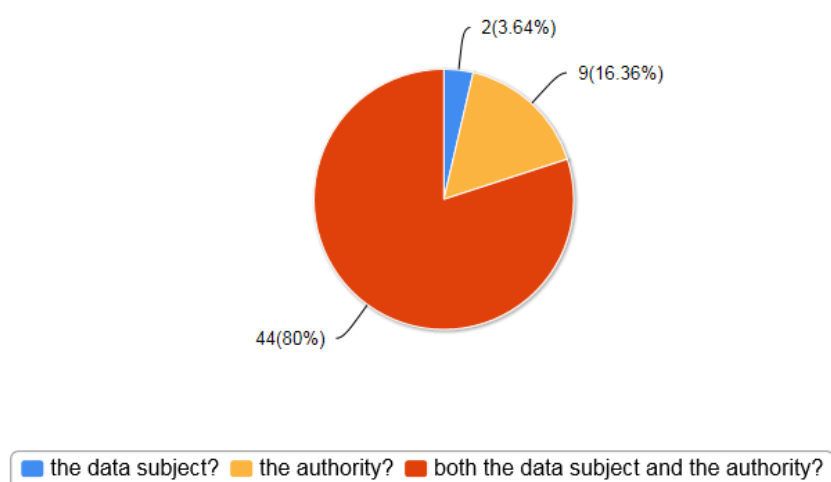
**FIGURE 31:** ARE THERE ANY MANDATORY BREACH NOTIFICATION REQUIREMENTS IN YOUR JURISDICTION? (86 RESPONDENTS)



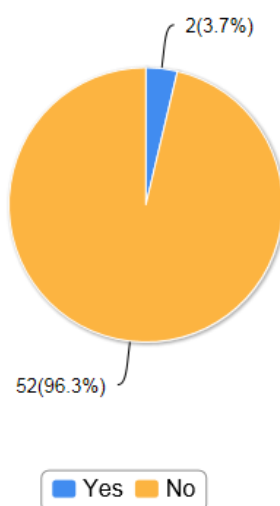
**FIGURE 32:** DO THE MANDATORY BREACH NOTIFICATION REQUIREMENTS APPLY GENERALLY OR TO PARTICULAR SECTORS? (58 RESPONDENTS)



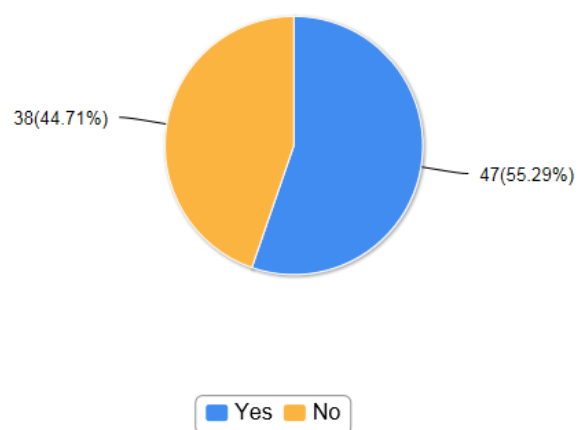
**FIGURE 33:** DO MANDATORY BREACH NOTIFICATION REQUIREMENTS RECOMMEND NOTIFICATION TO? (55 RESPONDENTS)



**FIGURE 34:** DO THE REQUIREMENTS PROVIDE ANY EXPLICIT DIRECTION ON NOTIFICATION TO INDIVIDUALS LIVING IN OTHER JURISDICTIONS? (54 RESPONDENTS)



**FIGURE 35:** IS THE AUTHORITY INVOLVED IN ENFORCING REGULATIONS ON SECURITY BREACH NOTIFICATIONS? (85 RESPONDENTS)<sup>15</sup>



<sup>15</sup> This question uses slightly different terminology to other questions. It was posed in this form to replicate a question uses in previous IAPP surveys.



### Number of notifications

Authorities were asked how many breach notifications (under voluntary or mandatory arrangements) they received in 2016. One remarkable feature of these results is the small number of notifications received under many schemes: the median figure being 6 notifications during 2016. While the Census gathered the precise numbers, the responses have been grouped together in this table:

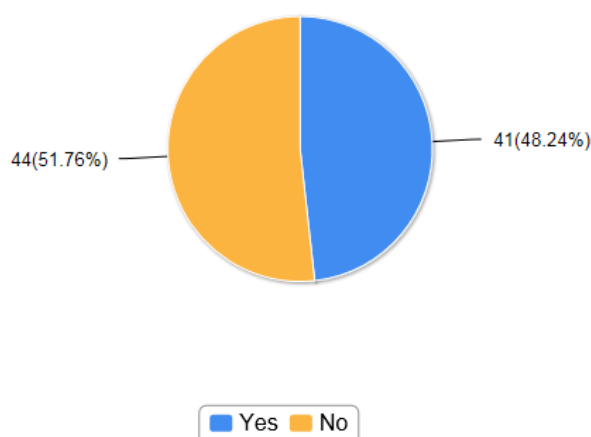
**TABLE 13:** HOW MANY BREACH NOTIFICATIONS (UNDER VOLUNTARY OR MANDATORY ARRANGEMENTS) DID THE AUTHORITY RECEIVE IN 2016? (88 RESPONDENTS)

No of notifications received in 2016	No of authorities
0	18
1-5	13
6-10	7
11-20	5
21-50	5
51-100	3
101-200	5
201-500	4
501-1000	2
1001-2000	0
2001-5000	2
5001-10,000	1
10,000+	1

Those authorities that had received notifications ranged from 1 to 54,005. The 54,005 figure is quite an outlier with the next highest number of notifications being 5,500 suggesting a difference in the way the phrase ‘breach notifications’ (FR ‘notifications d’atteintes’; ES ‘notificación de infracciones’) was interpreted by the respondent that entered the largest figure.

### Publication of information and statistics

**FIGURE 36:** DOES THE AUTHORITY PUBLISH ANY INFORMATION ON THE BREACH NOTIFICATIONS IT RECEIVES, FOR EXAMPLE TOTAL NUMBER OF NOTIFICATIONS RECEIVED, SECTORAL BREAKDOWN, DETAILS OF THOSE THAT RESULT IN FORMAL ACTION? (85 RESPONDENTS)



A supplementary question elicited the fact that of the 41 authorities that published information on breach notifications:

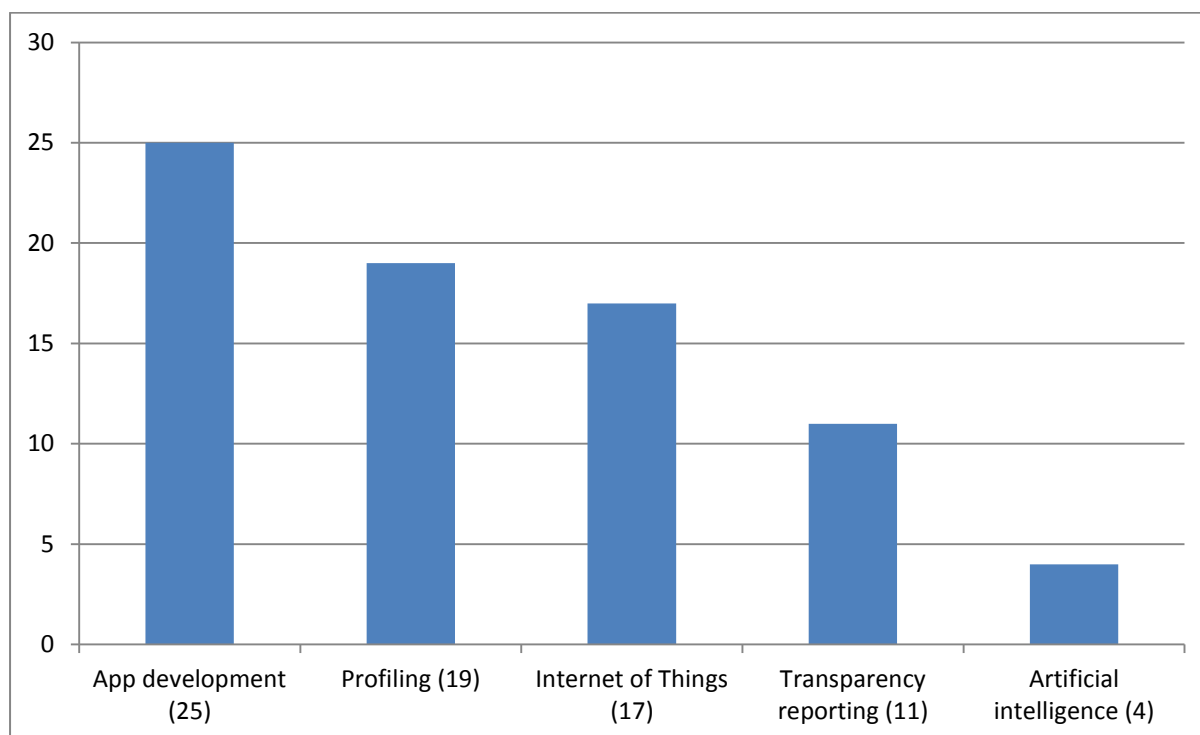
- 35 did so in their annual report,
- 16 did so on their website, and
- 4 did so elsewhere (not specified).

## Part G. Other matters

### **Guidance on selected topics**

Authorities were asked if they had published guidance relating to data protection aspects of 5 topics. Respondents were not told how the given topics were selected but in fact they corresponded to items that ICDPPC had focused upon in successive years.

**FIGURE 37:** HAS THE AUTHORITY PUBLISHED GUIDANCE RELATING TO DATA PROTECTION ASPECTS OF ANY OF THE FOLLOWING? (38 RESPONDENTS)



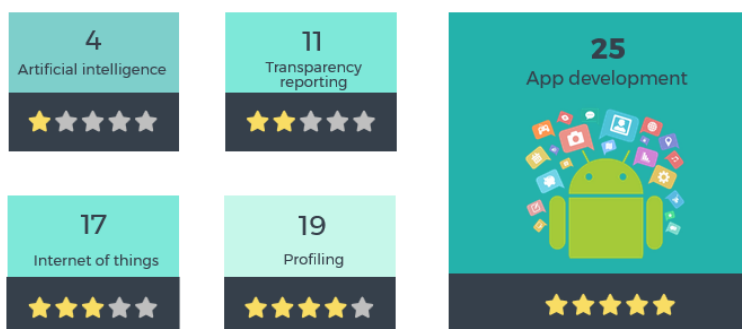
The Executive Committee has run a closed session satisfaction survey following each of the last 4 Conferences. This Census question sought to supplement those attitude surveys by seeking to find out whether the in-depth discussions might have resulted in objective tangible outcomes. The question used the production of guidance materials as a suitable indicator. The closed session discussions in question were:

- Profiling (34<sup>th</sup> Conference, 2012)
- Apps (35<sup>th</sup> Conference, 2013)
- IoT (36<sup>th</sup> Conference, 2014)
- AI (38<sup>th</sup> Conference, 2016).

The transparency reporting reference picks up on a 2015 resolution from the 37<sup>th</sup> Conference.

**INFOGRAPHIC 11: DATA PROTECTION GUIDANCE**

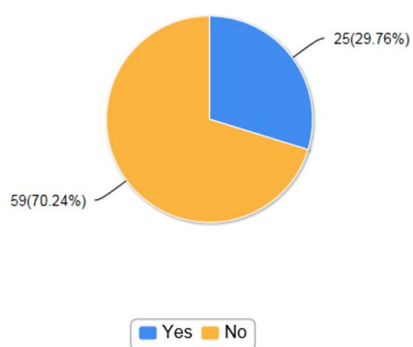

## Publications on data protection guidance



### Civil society

Most authorities had no formal process for engagement with civil society (e.g. regular scheduled meetings). This question had been suggested for inclusion in the Census by an academic and privacy activist.

**FIGURE 38: DOES THE AUTHORITY HAVE A FORMAL PROCESS FOR ENGAGEMENT WITH CIVIL SOCIETY (84 RESPONDENTS)**



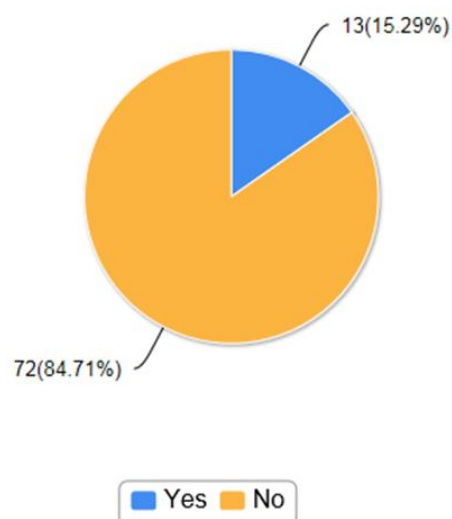
**INFOGRAPHIC 12: CIVIL SOCIETY ENGAGEMENT**



**Public opinion surveys**

About 1 in 7 authorities conducted a public opinion survey in 2016. This question was included to inform work being undertaken to give effect the [Resolution on developing new metrics of data protection regulation](#).

**FIGURE 39:** DID THE AUTHORITY CONDUCT A PUBLIC OPINION SURVEY IN 2016? (85 RESPONDENTS)



## Appendix 1: Organisational details and acknowledgements

**Responsible for the Census:** Blair Stewart, ICDPPC Secretariat

**Delivered with assistance of:** OECD Secretariat

**Origin:** [Resolution on developing new metrics of data protection regulation](#), adopted at 38<sup>th</sup> Conference, 18 October 2016

**Staff:** The contributions of the following people are particularly acknowledged:

- Office of the Privacy Commissioner, New Zealand: Linda Williams, Vanya Vida.
- OECD Secretariat: Claire Hilton, Elettra Ronchi, Cristina Serra-Vallejo.

**Census questions set by:** Blair Stewart, but the suggestions and comments of the following institutions and individuals are acknowledged: OECD Secretariat, Asian Privacy Scholars Network, New Zealand Privacy Commissioner's Office, International Association of Privacy Professionals, and, amongst individuals, Annabel Fordham and Graham Greenleaf.

**Text of survey questionnaire:** available in [English](#), [French](#) and [Spanish](#). (The assistance of the OECD Secretariat in providing translations is acknowledged.)

**Timing:** Link to online Census sent to ICDPPC members with logon and password on 25 March 2017; notified closing date 20 April 2017; deadline formally extended to 5 May 2017; late returns accepted up until 13 June 2017. Results released selectively to interested parties from July onwards with this complete summary report distributed to ICDPPC member authorities in advance of closed session of 39<sup>th</sup> Conference in Hong Kong on 26/27 September 2017 and released publicly at a Roundtable on an 'International Metrics Agenda for Privacy Policy Making' organised with the OECD Secretariat on 27 September.

**Number of responses:** 87

**Response rate:** ICDPPC has 114 members so the response rate could be expressed as 87/114 or 76%. However, much of the census proved unsuitable for supranational members to complete and the Secretariat decided not to pursue completion by those members. Although 2 of the Conference's 5 supranational members did submit responses, it might therefore be more meaningful to consider the response rate as 87/111 or 78%.

**Infographics:** Infographics 7 and 8 (extracts) and 9 and 10 were produced by Instituto Nacional de Transparencia, Acceso a la Información (INAI), Mexico. The other infographics were produced by the Data Protection Ghana. The 3 large infographics can be downloaded from the [census page](#) on the Conference website. The assistance of José Joel Peña Llanes and Frank Percy Sankah and their staff is acknowledged.

## Appendix 2: Text of Census questions (English version – [French](#) and [Spanish](#) versions also used)

(Note some questions changed somewhat in the conversion to an online version on the OECD platform. This version is illustrative only.)



### ICDPPC Census 2017

All ICDPPC member authorities are requested to complete this survey which will provide a comprehensive snapshot of Data Protection and Privacy Authorities in 2017.

The census supports the objectives of the [Resolution on developing new metrics of data protection regulation](#) adopted at the 38<sup>th</sup> Conference in October 2016.

#### Instructions:

- Please complete the survey by 20 April 2017.
- Only one response per member authority.
- If your authority is a unit within a much larger public body, please answer these questions only in relation to your unit (particularly Part C questions on funding and resources).
- A few questions ask for information relating to 2016, as the most recent complete year. Please answer such questions with information relating either to the calendar year 2016 or, where more convenient, the most recently completed financial year for which you have figures.
- Please attempt to complete all questions. However, if you are not able to answer a question please move on to the following questions and submit the incomplete response.

Further information about publication and release of information gathered in this census is available here

<https://icdppc.org/wp-content/uploads/2017/03/ICDPPC-Census-2017-Notes.pdf>.

ICDPPC Secretariat

### TABLE OF CONTENTS

The census has 49 questions in 7 Parts as follows:

- A. Authority profile
- B. Data protection law, jurisdiction and exemptions
- C. Authority's funding and resources
- D. Authority's enforcement powers, case handling and reporting
- E. Cross-border data flows, enforcement and cooperation
- F. Breach notification
- G. Other matters

## A. Authority profile

Please provide the following details regarding your data protection or privacy authority:

1. Name of Authority
2. Country /economy
3. Please indicate the region in which the authority is located:
  - a. Africa and Middle East
  - b. Asia
  - c. Europe
  - d. Oceania
  - e. North America
  - f. South or Central America
  - g. Other
4. Year of establishment
5. The authority was established in which decade?
  - a. 1970s or earlier
  - b. 1980s
  - c. 1990s
  - d. 2000s
  - e. 2010s
6. Does your authority have an official digital presence online? Y/N
7. If yes, please select as appropriate and provide details:
  - a. Website URL or user name: ...
  - b. Twitter account: @...
  - c. Facebook URL or username: ...
  - d. YouTube channel URL ...
  - e. Any other social media account address: ...
8. Does your authority publish an annual report? Y/N If YES, is it available via Internet, and at what URL? ...
9. How is the Head of your authority appointed?
  - a. Executive appointment
  - b. Legislative committee appointment
  - c. Election
  - d. Civil servant/direct hire
  - e. Other



## B. Data protection law, jurisdiction and exemptions

10. Does the authority oversee privacy protection practices by:
  - a. Only the public sector?
  - b. Only the private sector?
  - c. Both public and private sectors?
11. In addition to a data protection or privacy law, does your country's constitution include a reference to data protection or privacy? Y/N
12. In addition to roles under a data protection or privacy law, does your authority perform any functions under the following types of information, rights or accountability laws?
  - a. Government information access or Freedom of Information law
  - b. Unsolicited electronic communications or spam law
  - c. Human rights or anti-discrimination law
  - d. public key infrastructure (PKI) or cryptography law
  - e. Cyber-security law
  - f. Data portability law
  - g. Government ethics law
  - h. Competition law
  - i. Telecommunications regulation law
  - j. Health information law
13. Does your data protection or privacy law contain:
  - a. A partial exemption for State intelligence and security agencies?
  - b. A complete exemption for State intelligence and security agencies?
14. Has your data protection or privacy law been revised in the last 3 years? Y/N
15. Is your data protection or privacy law currently being revised? Y/N

## C. Authority's funding and resources

16. What was your total income for 2016 in your national currency (no decimals, please do not put commas or dots to differentiate thousands)?
17. How does the authority's total budget compare to the previous year?
  - a. The budget increased
  - b. The budget remained the same
  - c. The budget decreased
18. If your authority's budget increased from the previous year, by what percentage did it increase?
  - a. 1-5%
  - b. 6-10%
  - c. 11-20%

- d. more than 20%

19. Does your authority's funding coming from any of these sources (select all that apply):

- a. Government grants Y/N
- b. Registration or licensing fees Y/N
- c. Chargeable services (e.g. auditing, training, publications) Y/N
- d. Fines and penalties Y/N
- e. Other Y/N (please specify)

20. How many staff are employed by the authority (full time equivalent employees)?

21. How does the authority's total number of staff compare to the previous year?

- a. The number of staff has increased
- b. The number of staff has remained the same
- c. The number of staff has decreased

22. Please describe the geographic distribution of your staff:

- a. One office: All staff work at the same location
- b. Two offices: Staff are split between two offices
- c. More than two offices: Staff work at three or more offices

**D. Authority's enforcement powers, case handling and reporting**

23. What are the principal roles performed by your authority under the privacy or data protection law (indicate as many as apply):

- a. Mediation/ arbitration
- b. Policy research
- c. Handle complaints
- d. Registry activities
- e. Auditing/ inspections
- f. Public outreach/ education
- g. Advocate for privacy rights/ legislation
- h. Compliance/ investigations/ enforcement
- i. Other (please name)

24. How many cases did the authority accept for investigation in 2016?

25. Does the authority:

- a. Have the power to make binding decisions in individual cases? YES/NO
- b. Have the power to make recommendations in individual cases? YES/NO
- c. Have the power to refer to another authority with decision-making powers? YES/NO

26. Are the decisions or recommendations of the authority subject to appeal to another body (agency, court or tribunal)? Y/N If YES, how many cases were taken on appeal in 2016?
27. Does the authority report publicly on cases it has handled? Y/N If YES:
- a. How many case reports were released in the last year?
  - b. Are the case posted on the authority's website Y/N (please give URL)
  - c. Is a formal citation assigned to each case report? Y/N
  - d. Are the case reports uploaded to a central repository (such as an online legal information institute)? Y/N
28. Does the authority impose *finer or penalties* for a breach of the data protection or privacy law? Y/N If YES, does the authority keep any of the *fine or penalty*?
29. What was the largest fine or penalty imposed by the authority (or an appeal authority, court or tribunal) in 2016 for a breach of the data protection or privacy law (in your national currency)?
30. What was the largest amount of compensation awarded by the authority (or an appeal authority, court or tribunal) for harm caused by a breach of the privacy or data protection law in the last year (in your national currency)?
31. Does the authority ever publicly name organisations that have breached the privacy or data protection law? Y/N If Yes, how many organisations were publicly named in 2016 as having breached the law?

**E. Cross-border data flows, enforcement and cooperation**

32. Does the privacy or data protection law include express provision for any of the following (select all that apply):
- a. Transfer of complaints to privacy enforcement authorities in other jurisdictions? Y/N
  - b. Disclosure to privacy enforcement authorities in other jurisdictions of information obtained in investigations? Y/N
  - c. Assisting other privacy enforcement authorities in cross-border investigations? Y/N
  - d. A prohibition on providing information to other enforcement authorities? Y/N
33. Does the jurisdiction have legal provisions (whether in the privacy or data protection law or otherwise) that:
- a. Restrict the cross-border transfer of personal information? Y/N If YES, Does the authority have a role to enforce this law?
  - b. Require data processing facilities to be located within the jurisdiction? Y/N If YES, Does the authority have a role to enforce this law?
34. Does the data protection or privacy law establish a process for formally recognising other jurisdictions that that have laws establishing comparable data protection standards? If YES, Does the authority perform any role in that recognition process?
35. In 2016, has the authority participated in a secondment with another privacy enforcement authority? Y/N If YES:
- a. The authority hosted a staff member or members from another authority on secondment
  - b. The authority sent a staff member or members to another authority on secondment
36. Does the authority participate in any of these enforcement cooperation networks or arrangements (select all that apply):
- a. Global Privacy Enforcement Network (GPEN) Y/N
  - b. GPEN Alert Y/N

- c. APEC Cross-border Privacy Enforcement Arrangement (CPEA) Y/N
  - d. ICDPPC Enforcement Cooperation Arrangement Y/N
  - e. Unsolicited Communications Enforcement Network (UCENet) Y/N
37. Does the authority perform an enforcement role under any of these supra-national arrangements (select all that apply):
- a. EU-US Privacy Shield Y/N
  - b. Swiss-EU Privacy Shield Y/N
  - c. EU Binding Corporate Rules Y/N
  - d. APEC Cross-border Privacy Rules system (CBPRs) Y/N
38. Does the authority have any bilateral arrangements with the privacy enforcement authorities of other countries to co-operate in the enforcement of privacy laws? YES/NO
39. In 2016, has your office been involved with the following coordinated efforts, involving authorities from many countries, to raise awareness of privacy and data protection:
- a. Data Protection Day
  - b. Asia Pacific Privacy Awareness Week
  - c. GPEN Sweep
40. In 2016, has the authority (select all that apply):
- a. Undertaken a joint investigation with any other enforcement authority or regulator within the same country? Y/N
  - b. Undertaken a joint investigation with a privacy enforcement authority from another country? Y/N
  - c. Provided assistance to an investigation being undertaken by a privacy enforcement authority from another country? Y/N
41. In 2016, has the authority (select all that apply):
- a. Transferred a complaint to a privacy enforcement authority in another country? Y/N
  - b. Received the transfer of a complaint from a privacy enforcement authority in another country? Y/N

**F. Breach notification**

42. Are there any **voluntary** breach notification guidelines issued by the authority in your jurisdiction? Y/N If Yes, do they recommend notification to:
- a. the data subject
  - b. the authority
  - c. both the data subject and the authority
43. Are there any **mandatory** breach notification requirements in your jurisdiction? Y/N If Yes:
- a. Do the mandatory breach notification requirements apply generally or to particular sectors? (options to be given: generally, all public sector, all private sector, telecommunications sector, health sector, other sector (please describe))
  - b. Do mandatory breach notification requirements recommend notification to:
    - i. the data subject

ii. the authority

iii. both the data subject and the authority?

c. Do the requirements provide any explicit direction on notification to individuals living in other jurisdictions? If YES, please briefly describe

44. Is the authority involved in enforcing regulations on security breach notifications?

45. How many breach notifications (under voluntary or mandatory arrangements) did the authority receive in 2016?

**G. Other matters**

46. Has the authority published guidance relating to data protection aspects of any of the following (select all that apply):

a. Profiling Y/N

b. App development? Y/N

c. The Internet of Things? Y/N

d. Transparency reporting? Y/N

e. Artificial intelligence

47. Does your authority have a formal process for engagement with civil society (e.g. regular scheduled meetings)?

48. Did the Authority conduct a public opinion survey in 2016? If YES, if it is published online, please provide URL

### Appendix 3: Release of census data for other research

In the [Resolution on developing new metrics of data protection regulation](#) the conference resolved to “support the efforts of other international partners to make progress” in relation to creating and using internationally comparable privacy statistics. To give effect to this the ICDPPC Secretariat published a [census policy](#) that expressly anticipated release of the information gathered to other networks of privacy and data protection authorities and approved researchers. Release is at the discretion of the ICDPPC Secretariat and may be subject to conditions.

Any network of privacy and data protection authorities, or researcher, wishing to have access to the information should complete the [request for release of information form](#) and submit it to the ICDPPC Secretariat at [ExCoSecretariat@icdppc.org](mailto:ExCoSecretariat@icdppc.org).

#### Calling other networks of privacy and data protection authorities

*Regional networks:* Why not access the data to create and publish a detailed profile of the authorities in your region? It will save you the effort of running a separate survey. Also your results will be able to be directly compared to the global benchmarks represented by the totals and averages set out in this report.

*Enforcement networks:* Why not do a deeper dive than has been possible in this report into the data contained in Parts D (enforcement powers, case handling and reporting), E (cross-border data flows, enforcement and cooperation) and F (breach notification)? Analysis by reference to data in the authority profiles and other Parts of the census is also possible.

#### What census data is available?

The census data held by the ICDPPC Secretariat should be able readily to be inferred by looking at the census questionnaire appended above and this report. The information is typically in the form of individual returns and tabulated totals to questions.

Additionally, the ICDPPC Secretariat has extracted some information into standalone lists or spreadsheets for the convenience of researchers. The lists are published directly on the ICDPPC website while the spreadsheets are available on request:

- List of links to authorities’ social media sites (on the website as [Members online](#)).
- List of links to authorities’ constitutional references (on the [census page](#) of the website).
- List of links to authorities’ annual reports (on the [census page](#) of the website).
- Spreadsheet of authorities’ staffing in FTEs (available on request).
- Spreadsheet of authorities’ funding (converted to Euros) (available on request).

There is no need to use the request for release of information form to access the published lists.

## Appendix 4: List of Figures, tables and infographics

### A. *AUTHORITY PROFILE*

**Figure 1:** region in which the authority is located

**Infographic 1:** Respondent profile (geographic)

**Figure 2:** Conference membership profile by region

**Table 1:** Regional breakdown of ICDPPC membership and Census returns compared

**Infographic 2:** Regional breakdown of membership and census returns

**Figure 3:** The authority was established in which decade?

**Infographic 3:** Establishment pathway

**Figure 4:** Does the authority have an official digital presence online?

**Infographic 4 (extract):** Digital presence

**Table 2:** Website and social media presence

**Infographic 5:** Digital presence of ICDPPC members

**Figure 5:** How is the Head of the authority appointed?

**Infographic 6:** Appointment of head of authority

### B. *DATA PROTECTION LAW, JURISDICTION AND EXEMPTIONS*

**Figure 6:** Does the authority oversee privacy protection practices by:

**Figure 7:** In addition to a data protection or privacy law, does your country's constitution refer to data protection or privacy?

**Figure 8:** In addition to roles under a data protection or privacy law, does the authority perform any functions under the following types of information, rights or accountability laws?

**Infographic 7 (extract):** Additional functions

**Table 3:** Additional functions undertaken by authorities

**Figure 9:** Does your data protection or privacy law contain [intelligence/security agency exemption]

**Figure 10:** Has your data protection or privacy law been revised in the last 3 years?

**Figure 11:** Is your data protection or privacy law currently being revised?

**Infographic 8 (extract):** Laws being revised

**Infographic 9:** Jurisdiction and exemptions

**Infographic 10:** Jurisdiction and exemptions

*C. AUTHORITY'S FUNDING AND RESOURCES*

**Figure 12:** How does the authority's total budget compare to the previous year?

**Figure 13:** If the authority's budget increased from the previous year, by what percentage did it increase?

**Figure 14:** Does the authority's funding coming from any of these sources?

**Table 4:** Largest authorities by FTEs

**Table 5:** How many staff are employed by the authority?

**Figure 15:** How does the authority's total number of staff compare to the previous year?

**Table 6:** Geographic distribution of staff between offices

**Table 7:** What might a typical Privacy or Data Protection Authority look like?

*D. AUTHORITY'S ENFORCEMENT POWERS, CASE HANDLING AND REPORTING*

**Figure 16:** What are the principal roles performed by the authority under the privacy or data protection law?

**Table 8:** Does the authority [decision/recommendation/referral]

**Figure 17:** Are the decisions or recommendations of the authority subject to appeal to another body?

**Figure 18:** Does the authority report publicly on cases it has handled?

**Table 9:** Case reporting: Citation and dissemination practices

**Figure 19:** Does the authority impose fines or penalties for a breach of the data protection or privacy law?

**Table 10:** Does the authority keep any of the fine or penalty?

**Figure 20:** Does the authority report publicly on cases it has handled?

*E. CROSS-BORDER DATA FLOWS, ENFORCEMENT AND COOPERATION*

**Table 11:** Does the privacy or data protection law include express provision for any of the following?

**Table 12:** Does the privacy or data protection law include express provision for the following:

**Figure 21:** Does the data protection or privacy law establish a process for formally recognising other jurisdictions that have laws establishing comparable data protection standards?

**Figure 22:** Does the authority perform any role in that recognition process?

**Figure 23:** In 2016, has the authority participated in a secondment with another privacy enforcement authority?

**Figure 24:** Which of these enforcement cooperation networks or arrangements does the authority participate in?

**Figure 25:** Does the authority perform an enforcement role under any of these supra-national arrangements?

**Figure 26:** Does the authority have any bilateral arrangements with the privacy enforcement authorities of other countries to co-operate in the enforcement of privacy laws?



**Figure 27:** In 2016, has your office been involved with the following coordinated efforts, involving authorities from many countries, to raise awareness of privacy and data protection?

**Figure 28:** In 2016, has the authority [incidents of cross-border enforcement]

*F. BREACH NOTIFICATION*

**Figure 29:** Are there any voluntary breach notification guidelines issued by the authority in your jurisdiction?

**Figure 30:** Do they recommend notification to?

**Figure 31:** Are there any mandatory breach notification requirements in your jurisdiction?

**Figure 32:** Do the mandatory breach notification requirements apply generally or to particular sectors?

**Figure 33:** Do mandatory breach notification requirements recommend notification to?

**Figure 34:** Do the requirements provide any explicit direction on notification to individuals living in other jurisdictions?

**Figure 35:** Is the authority involved in enforcing regulations on security breach notifications ?

**Table 13:** How many breach notifications (under voluntary or mandatory arrangements) did the authority receive in 2016?

**Figure 36:** Does the authority publish any information on the breach notifications it receives, for example total number of notifications received, sectoral breakdown, details of those that result in formal action?

*G. OTHER MATTERS*

**Figure 37:** Has the authority published guidance relating to data protection aspects of any of the following?

**Infographic 11:** Data protection guidance

**Figure 38:** Does the authority have a formal process for engagement with civil society?

**Infographic 12:** Civil society engagement

**Figure 39:** Did the authority conduct a public survey opinion survey in 2016?

## Appendix 5: Links to annual reports

Nearly all authorities (87 out of 88 respondents or 98.86%) reported that they published an annual report. Most also confirmed that they published their annual report online (only 6 reporting that they did not). Authorities were invited to provide links to annual reports and these are reproduced below.

Authority Name	Country/ economy	Annual Report online
Information and Data Protection Commissioner	Albania	<a href="http://www.idp.al/annual-reports/?lang=en">http://www.idp.al/annual-reports/?lang=en</a>
APDA	Andorra	<a href="https://www.apda.ad/content/memories-apda">https://www.apda.ad/content/memories-apda</a>
Dirección Nacional de Protección de Datos Personales	Argentina	<a href="http://www.jus.gob.ar/datos-personales/acerca-de-la-direccion/informe-de-gestion-2016.aspx">http://www.jus.gob.ar/datos-personales/acerca-de-la-direccion/informe-de-gestion-2016.aspx</a>
Personal Data Protection Agency	Armenia	<a href="http://moj.am/storage/uploads/Annual_Report_2015_Armenia.pdf">http://moj.am/storage/uploads/Annual_Report_2015_Armenia.pdf</a>
Commissioner for Privacy and Data Protection	Australia	<a href="https://www.cdpd.vic.gov.au/menu-resources/resources-reports">https://www.cdpd.vic.gov.au/menu-resources/resources-reports</a>
Office of the Australian Information Commissioner	Australia	<a href="https://www.oaic.gov.au/about-us/corporate-information/annual-reports/all/">https://www.oaic.gov.au/about-us/corporate-information/annual-reports/all/</a> and <a href="https://www.oaic.gov.au/performance">https://www.oaic.gov.au/performance</a>
Datenschutzbehörde	Austria	<a href="http://www.dsb.gv.at">www.dsb.gv.at</a>
Privacycommission	Belgium	<a href="http://www.privacycommission.be">www.privacycommission.be</a>
Personal data protection Agency in BiH	Bosnia and Herzegovina	<a href="http://www.azlp.gov.ba">www.azlp.gov.ba</a>
Commission for Personal Data Protection	Bulgaria	<a href="https://www.cdpd.bg/en/index.php?p=rubric&amp;aid=14">https://www.cdpd.bg/en/index.php?p=rubric&amp;aid=14</a>
ARTCI	Cote d'Ivoire	No
Office of the Privacy Commissioner of Canada	Canada	<a href="https://www.priv.gc.ca/en/opc-actions-and-decisions/reports-to-parliament/201516/ar_201516/">https://www.priv.gc.ca/en/opc-actions-and-decisions/reports-to-parliament/201516/ar_201516/</a>
Information and Privacy Commissioner for Newfoundland and Labrador	Canada	<a href="http://www.oipc.nl.ca/reports/annual">http://www.oipc.nl.ca/reports/annual</a>
Manitoba Ombudsman	Canada	<a href="https://www.ombudsman.mb.ca/documents_and_files/annual-reports.html">https://www.ombudsman.mb.ca/documents_and_files/annual-reports.html</a>
Information and Privacy Commissioner of Ontario	Canada	<a href="http://www.ipc.on.ca/about-us/annual-reports/">www.ipc.on.ca/about-us/annual-reports/</a>
Information and Privacy Commissioner for Nova Scotia	Canada	<a href="https://foipop.ns.ca/annual-reports">https://foipop.ns.ca/annual-reports</a>
Superintendencia de Industria y Comercio	Colombia	<a href="http://www.sic.gov.co/gestion">http://www.sic.gov.co/gestion</a>
Commissioner for Personal Data Protection	Cyprus	<a href="http://www.dataprotection.gov.cy">http://www.dataprotection.gov.cy</a>
Office for Personal Data Protection	Czech Republic	<a href="https://www.uoou.cz/en/vismo/zobraz_dok.asp?id_org=200156&amp;id_ktg=1235&amp;archiv=0&amp;p1=1350">https://www.uoou.cz/en/vismo/zobraz_dok.asp?id_org=200156&amp;id_ktg=1235&amp;archiv=0&amp;p1=1350</a>
Datatilsynet	Denmark	<a href="https://www.datatilsynet.dk/publikationer/datatilsynets-aarsberetninger/">https://www.datatilsynet.dk/publikationer/datatilsynets-aarsberetninger/</a>
Estonian Data Protection Inspectorate	Estonia	<a href="http://www.aki.ee/et/inspeksioon/aastaettekanded">http://www.aki.ee/et/inspeksioon/aastaettekanded</a>
European Data Protection Supervisor	European Union	<a href="https://edps.europa.eu/press-publications/publications/annual-activity-reports_en">https://edps.europa.eu/press-publications/publications/annual-activity-reports_en</a>
The Data Protection Ombudsman	Finland	<a href="http://www.tietosuoja.fi">www.tietosuoja.fi</a>
Council of Europe Data Protection Commissioner	France	<a href="http://www.coe.int/en/web/data-protection/data-protection-commissioner">http://www.coe.int/en/web/data-protection/data-protection-commissioner</a>

Directorate for Personal Data Protection	FYROM	<a href="https://dzlp.mk/en/node/2413">https://dzlp.mk/en/node/2413</a>
Office of the Personal Data Protection Inspector	Georgia	<a href="https://personaldata.ge/manage/res/images/news-image/2016/angarishi/personal%20data%20protection%20report%20.pdf">https://personaldata.ge/manage/res/images/news-image/2016/angarishi/personal%20data%20protection%20report%20.pdf</a>
State Commissioner for Data Protection and Access to Information Brandenburg	Germany	<a href="http://www.lida.brandenburg.de/cms/detail.php/bb1.c.241161.de">http://www.lida.brandenburg.de/cms/detail.php/bb1.c.241161.de</a>
Der Hessische Datenschutzbeauftragte	Germany	<a href="http://www.datenschutz.hessen.de">www.datenschutz.hessen.de</a>
Berlin Commissioner for Data Protection and Freedom of Information	Germany	<a href="http://www.datenschutz-berlin.de/content/veroeffentlichungen/jahresberichte">www.datenschutz-berlin.de/content/veroeffentlichungen/jahresberichte</a>
Unabhaengiges Landeszentrum fuer Datenschutz Schleswig Holstein	Germany	
Federal Commissioner for Data Protection and Freedom of Information	Germany	<a href="https://www.bfdi.bund.de/DE/Infothek/Taetigkeitsberichte/taetigkeitsberichte-node.html">https://www.bfdi.bund.de/DE/Infothek/Taetigkeitsberichte/taetigkeitsberichte-node.html</a>
State Commissioner for the Protection of Personal Data and the Freedom of Information of Rhineland Palatinate	Germany	<a href="https://www.datenschutz.rlp.de/de/service/infothek/taetigkeitsberichte/">https://www.datenschutz.rlp.de/de/service/infothek/taetigkeitsberichte/</a>
Data Protection Commission	Ghana	No
Gibraltar Regulatory Authority	Gibraltar	<a href="http://www.gra.gi/report">http://www.gra.gi/report</a>
Data Protection Authority	Greece	<a href="http://www.dpa.gr/portal/page?_pageid=33,15078&amp;_dad=portal&amp;_schema=PORTAL">http://www.dpa.gr/portal/page?_pageid=33,15078&amp;_dad=portal&amp;_schema=PORTAL</a>
Privacy Commissioner for Personal Data Hong Kong	Hong Kong	<a href="https://www.pcpd.org.hk/english/resources_centre/publications/annual_report/annualreport.html">https://www.pcpd.org.hk/english/resources_centre/publications/annual_report/annualreport.html</a>
Data Protection Commissioner	Ireland	<a href="https://www.dataprotection.ie/docs/11-04-2017-Annual-Report-2016/1631.htm">https://www.dataprotection.ie/docs/11-04-2017-Annual-Report-2016/1631.htm</a>
Information Commissioner	Isle of Man	<a href="https://www.inforights.im/information-centre/about-us/our-information/">https://www.inforights.im/information-centre/about-us/our-information/</a>
Garante per la protezione dei dati personali	Italy	<a href="http://www.garanteprivacy.it/web/guest/home/attivita-e-documenti/documenti/relazioni-annuali">http://www.garanteprivacy.it/web/guest/home/attivita-e-documenti/documenti/relazioni-annuali</a>
Information Commissioner Jersey and Data Protection Commissioner Guernsey	Jersey	<a href="https://dataci.je/wp-content/uploads/2016/08/2016.08.16-Final-Annual-Report-2015.pdf">https://dataci.je/wp-content/uploads/2016/08/2016.08.16-Final-Annual-Report-2015.pdf</a>
Data State Inspectorate of The Republic of Latvia	Latvia	<a href="http://www.dvi.gov.lv/en/">http://www.dvi.gov.lv/en/</a> (English version)
Commission nationale pour la protection des donnees	Luxembourg	<a href="https://cnpd.public.lu/fr/publications/rapports/index.html">https://cnpd.public.lu/fr/publications/rapports/index.html</a>
Autorite de Protection Des Donnees a Caractere Personnel	Mali	<a href="http://apdp.ml/rapport-annuel-2016-apdp/">http://apdp.ml/rapport-annuel-2016-apdp/</a>
Information and Data Protection Commissioner	Malta	No
Data Protection Office	Mauritius	<a href="http://dataprotection.govmu.org/English/Publications/Pages/Publications.aspx">http://dataprotection.govmu.org/English/Publications/Pages/Publications.aspx</a>
Transparency Public Information Access and Personal Data Protection Institute of Estado de Mexico and municipalities	Mexico	<a href="http://www.infoem.org.mx/doc/publicaciones/Informe_15-16.pdf">http://www.infoem.org.mx/doc/publicaciones/Informe_15-16.pdf</a>
National Centre for Personal Data Protection of the Republic of Moldova	Moldavia	<a href="http://datepersonale.md/file/Raport/Raport2015FINE.pdf">http://datepersonale.md/file/Raport/Raport2015FINE.pdf</a>

CNDP	Morocco	<a href="http://www.cndp.ma/fr/cndp/publications.html">http://www.cndp.ma/fr/cndp/publications.html</a>
Autoriteit Persoonsgegevens	Netherlands	<a href="https://www.autoriteitpersoonsgegevens.nl/nl/publicaties/jaarverslagen">https://www.autoriteitpersoonsgegevens.nl/nl/publicaties/jaarverslagen</a>
Privacy Commissioner	New Zealand	<a href="https://privacy.org.nz/assets/Uploads/Privacy-Commissioner-Annual-Report-2016.pdf">https://privacy.org.nz/assets/Uploads/Privacy-Commissioner-Annual-Report-2016.pdf</a>
Bureau of the Inspector General for Personal Data Protection	Poland	<a href="http://www.giodo.gov.pl/541/id_art/2685/j/pl/">http://www.giodo.gov.pl/541/id_art/2685/j/pl/</a>
Comissao Nacional de Proteccao de Dados	Portugal	<a href="https://www.cnpd.pt/bin/relatorios/anos/Relatorio_2015.pdf">https://www.cnpd.pt/bin/relatorios/anos/Relatorio_2015.pdf</a>
Personal Information Protection Commission	Republic of Korea	No
Commissioner for Information of Public Importance and Personal Data Protection	Serbia	<a href="http://www.poverenik.rs/en/commissioners-report/2568-izvestaj-poverenika-za-2016-godinu.html">http://www.poverenik.rs/en/commissioners-report/2568-izvestaj-poverenika-za-2016-godinu.html</a>
Office for Personal Data Protection of the Slovak Republic	Slovakia	<a href="https://dataprotection.gov.sk/uouu/sk/content/vyrocné-spravy">https://dataprotection.gov.sk/uouu/sk/content/vyrocné-spravy</a>
Informacijski pooblastenec	Slovenia	<a href="https://www.ip-rs.si/publikacije/letna-porocila/">https://www.ip-rs.si/publikacije/letna-porocila/</a>
Agencia Espanola de Proteccion de Datos	Spain	<a href="http://www.agpd.es/portalwebAGPD/LaAgencia/informacion_institucional/memorias-ides-idphp.php">http://www.agpd.es/portalwebAGPD/LaAgencia/informacion_institucional/memorias-ides-idphp.php</a>
Catalan Data Protection Authority	Spain	<a href="http://apdcatal.gencat.cat/ca/autoritat/memoria_anual/">http://apdcatal.gencat.cat/ca/autoritat/memoria_anual/</a>
Datainspektionen	Sweden	<a href="http://butik.datainspektionen.se/produkt-kategori/arsredovisningar/">http://butik.datainspektionen.se/produkt-kategori/arsredovisningar/</a>
Datenschutzbeauftragte	Switzerland	<a href="https://www.zg.ch/behoerden/datenschutzstelle/ueber-uns/taetigkeitsberichte">https://www.zg.ch/behoerden/datenschutzstelle/ueber-uns/taetigkeitsberichte</a>
Datenschutzbeauftragter des Kantons Basel Stadt	Switzerland	<a href="http://www.dsb.bs.ch/ueber-uns/taetigkeitsberichte.html">http://www.dsb.bs.ch/ueber-uns/taetigkeitsberichte.html</a>
Data protection commissioner of the canton of Basel Stadt		
DPA Canton of Zurich	Switzerland	<a href="https://dsb.zh.ch/internet/datenschutzbeauftragter/de/ueber_uns/taetigkeit_sberichte.html">https://dsb.zh.ch/internet/datenschutzbeauftragter/de/ueber_uns/taetigkeit_sberichte.html</a>
Data Protection Authority Canton Basel Landschaft	Switzerland	<a href="https://www.baselland.ch/politik-und-behorden/besondere-behorden/datenschutz/publikationen/taetigkeitsberichte">https://www.baselland.ch/politik-und-behorden/besondere-behorden/datenschutz/publikationen/taetigkeitsberichte</a>
National Personal Data Authority	Tunisia	No
Information Commissioner's Office	United Kingdom	<a href="https://ico.org.uk/about-the-ico/our-information/annual-reports/">https://ico.org.uk/about-the-ico/our-information/annual-reports/</a>
UNIDAF Regulatory de Control de Dtaos Personales	Uruguay	<a href="https://www.datospersonales.gub.uy/inicio/publicaciones/memorias-nuales/">https://www.datospersonales.gub.uy/inicio/publicaciones/memorias-nuales/</a>
Benin National Commission for Technology and Freedoms	West Africa	<a href="http://cnilbenin.bj/rapports-annuels/">http://cnilbenin.bj/rapports-annuels/</a>
Der Landesbeauftragte fuer Datenschutz und Informationsfreiheit MV	Germany	<a href="https://www.datenschutz-mv.de/datenschutz/publikationen/tb.html">https://www.datenschutz-mv.de/datenschutz/publikationen/tb.html</a>
Office of the Information and Privacy Commissioner of BC	Canada	<a href="https://www.oipc.bc.ca/report/annual-reports/">https://www.oipc.bc.ca/report/annual-reports/</a>
Federal Trade Commission	United States	<a href="https://www.ftc.gov/reports/privacy-data-security-update-2016">https://www.ftc.gov/reports/privacy-data-security-update-2016</a>
Instituto Nacional de Transparencia Acceso a la Informacion y Proteccion de Datos Personales INAI	Mexico	<a href="http://inicio.inai.org.mx/SitePages/Informes-2011.aspx">http://inicio.inai.org.mx/SitePages/Informes-2011.aspx</a>
The Saxon Data Protection Commissioner	Germany	<a href="https://www.saechsdsb.de/taetigkeitsberichte-oeb">https://www.saechsdsb.de/taetigkeitsberichte-oeb</a>
National Agency for	Kosovo	<a href="http://www.amdp-rks.org/?page=2,36&amp;ddate=2015">http://www.amdp-rks.org/?page=2,36&amp;ddate=2015</a>

Personal Data Protection		
Information Commissioner Northern Territory	Australia	<a href="https://infocomm.nt.gov.au/resources/publications">https://infocomm.nt.gov.au/resources/publications</a>
National Authority for Data Protection and Freedom of Information	Hungary	<a href="http://www.naih.hu/annual-reports.html">http://www.naih.hu/annual-reports.html</a>
National Privacy Commission	Philippines	No
State Data Protection Inspectorate	Lithuania	<a href="https://www.ada.lt/go.php/lit/Veiklos-ataskaitos">https://www.ada.lt/go.php/lit/Veiklos-ataskaitos</a>
Commission Nationale de l'Informatique et des Libertés	France	<a href="https://www.cnil.fr/sites/default/files/atoms/files/cnil-37e_rapport_annuel_2016.pdf">https://www.cnil.fr/sites/default/files/atoms/files/cnil-37e_rapport_annuel_2016.pdf</a>
Bayerischer Landesbeauftragter fuer den Datenschutz	Germany	<a href="https://www.datenschutz-bayern.de">https://www.datenschutz-bayern.de</a>
Burkina Faso Data Processing and Liberties Commission	Burkina Faso	No
National Authority for Personal Data Processing	Romania	<a href="http://www.dataprotection.ro/index.jsp?page=Annual%20reports&amp;lang=en">http://www.dataprotection.ro/index.jsp?page=Annual%20reports&amp;lang=en</a>
Switzerland Federal Data Protection Commission	Switzerland	<a href="http://www.edoeb.admin.ch">www.edoeb.admin.ch</a>
Datatilsynet	Norway	<a href="https://www.datatilsynet.no/Om-Datatilsynet/Arsmeldinger/arsmelding-2016/">https://www.datatilsynet.no/Om-Datatilsynet/Arsmeldinger/arsmelding-2016/</a>
Office of the Information and Privacy Commissioner	Canada	<a href="http://atipp-nt.ca/">http://atipp-nt.ca/</a>
Information and Privacy Commissioner of Nunavut	Canada	<a href="http://www.info-privacy.nu.ca/">http://www.info-privacy.nu.ca/</a>
Commission Information Quebec	Canada	<a href="http://www.cai.gouv.qc.ca/">http://www.cai.gouv.qc.ca/</a>
Personuvernd Icelandic Data Protection Authority	Iceland	<a href="http://www.personuvernd.is">www.personuvernd.is</a>