

INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS

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Agenda Item I: (a)

Credentials Report

Credentials Committee

**33rd International Conference of Data Protection
and Privacy Commissioners
November 1, 2011
Mexico City**



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Of Data Protection
and Privacy Commissioners**

Privacy: The Global Age
2-3 November 2011 Mexico City

REPORT

CREDENTIALS COMMITTEE

Mexico City

In this 10th Annual Report, the Credentials Committee of the International Conference of Data Protection and Privacy Commissioners presents a summary of the applications for accreditation submitted this year and the Committee's recommendations in this regard.

As a preliminary state, this is the first of this type since the adoption of the new Accreditation Rules by the 32nd Conference, held last year in Jerusalem, and concerns for the first time accreditation requests both for Member and Observer status.

Conference resolutions

As usual, the Committee would like to introduce its members:

- Mr. Allan Chiang, Privacy Commissioner for Personal Data of Hong Kong
- Mr. Billy Hawkes, Data Protection Commissioner of Ireland
- Mr. José Luis Rodríguez Álvarez, Director of the Spanish Data Protection Agency.

Mr. Rodríguez Álvarez (in place of Mr. Rallo Lombarte, who finished his office this year) was appointed to the Credentials Committee at the 30th Conference and his term was exceptionally extended for one year, given the works of the Interim Executive Committee to address the future organisational set up of the Conference. Therefore, his term will expire immediately after the Conference. Mr. Hawkes and Mr. Chiang (in place of Mr. Roderick Woo, who finished his office in 2010) were appointed to the Credentials Committee at the 31st Conference and their term will also expire immediately after this edition of the Conference. The Credentials Committee has been assisted by Mr. Rafael García Gozalo, from the Spanish Data Protection Agency, as acting secretary.

It should be remarked that it is presumed that the Credentials Committee does not need to be renewed this year, insofar as it is foreseen that this work will be undertaken by the future Executive Committee. The members would like to thank the

authorities accredited to the Conference for their support and close cooperation in their period of functioning, and wish the best of luck to the incoming Committee.

Applications received

This year, the Committee received six applications of data protection authorities:

COUNTRY	STATUS REQUESTED	NAME OF THE AUTHORITY
Bosnia and Herzegovina	Member	Agencija za zaštitu ličnih podataka u Bosni i Hercegovini (Personal Data Protection Agency in Bosnia and Herzegovina)
Japan	Observer	消費者庁 (Consumer Affairs Agency)
Macao	Observer	Gabinete para a Protecção de Dados Pessoais (Office for Personal Data Protection)
Morocco	Member	Commission nationale de contrôle et de protection des données personnelles (National Commission for the control and the protection of Personal Data)
Peru	Member	Autoridad Nacional de Protección de Datos Personales (National Authority for Data Protection)
South Korea	Member	행정안전부 (Ministry of Public Administration and Security)

Recommendations of the Credentials Committee

1. Applications for accreditation as Member

Upon review of the applications received and consideration of legislative instruments and other documents provided as background information, the Credentials Committee recommends that the Personal Data Protection Agency in Bosnia and Herzegovina and the National Commission for the control and the protection of Personal Data of Morocco be granted Member status to the Conference. The Credentials Committee is satisfied that each of these authorities meets the requisite conditions for accreditation; notably that they:

- are public entities, created by an appropriate legal instrument based upon legal traditions of the country or international organisation which they belong to;
- have the supervision of the implementation of the legislation on the protection of personal data or privacy as one of their principal regulatory mandates;
- operate under a legislation that is compatible with the principal international instruments dealing with data protection or privacy;
- have an appropriate range of legal powers to perform their functions; and
- have appropriate autonomy and independence.

The Credentials Committee has not reached an agreement with regard to the Ministry of Public Administration and Security of South Korea. In the view of Mr. Hawkes and Mr. Rodríguez Álvarez, insofar as a Ministry is by definition subordinated and subject to the political instructions of its government, it does not meet the requirement of having appropriate autonomy and independence. However., Mr. Chiang notes there are indications in MOPAS' application that the Ministry does operate with some degree of independence. These include.

- (a) MOPAS works under the Personal Information Protection Committee which shall be established by the National Assembly and comprise non-public official members of diverse background and appointed on fixed terms.
- (b) MOPAS implements policy and basic plan deliberated and resolved by this independent Protection Committee.
- (c) MOPAS is empowered to take administrative measures independently and its authority cannot be affected by any third party's instruction.
- (d) The Minister of MOPAS can be removed from office if he has violated the Constitution or other Acts in the performance of official duties and the concurrent majority vote of the National Assembly is obtained.

He therefore considers that the issue of MOPAS' independence needs to be further explored before a conclusion on its application for membership could be reached.

The commendable work that is being done by MOPAS in promoting privacy rights in South Korea is, however, beyond any doubt, so the Committee urges it to continue its work in the area of privacy and data protection.

Finally, and given that the National Authority for Data Protection of Peru has submitted its documentation long time after the expiry of the deadlines provided for by section 2.1(d) of the Accreditation Rules, the Credentials Committee was not able to properly assess its application, which will be held over for consideration after the Conference.

2. Applications for accreditation as Observer

The Credentials Committee recommends that both applicants will be granted Observer status to the Conference, insofar as they are public entities involved in dealing with the protection of personal data. Moreover, and for the same reasons, the Committee recommends that such status is also granted to the Ministry of Public Administration and Security of South Korea. As regards the National Authority for Data Protection of Peru, a preliminary assessment of its application clearly shows that it also meets this requirement. Despite the formal error, given the Conference's aim to be the global forum of Data Protection and Privacy Enforcement Authorities, the Committee recommends that this authority is granted observer status too.

Background Information of New Members

The Personal Data Protection Agency (AZLP) is an independent administrative organization established in 2006, responsible for monitoring the implementation of the Act on the Protection of Personal Data in Bosnia and Herzegovina (published in the Official Gazette 49/06). It is involved on a stable basis in the Consultative Committee of the Council of Europe's Convention 108. Its Director is Mr. Petar Kovačević, who is currently responsible for a staff of 45.

The National Commission for the control and the protection of Personal Data of Morocco is a recently established public authority. Since March 2011 it is responsible for implementing and ensuring compliance with the provisions of the Act 09-08, on the protection of individuals with regard to the processing of personal data, as well as of the texts adopted for its implementation. Its President is the Professor Saïd Ihraï.