

Report by Secretariat on Observer Applications

The following entities have submitted applications (annexed) seeking to be observers:

1. Danish National Police
2. International Committee of the Red Cross
3. Baker & McKenzie

The applications have been edited for presentation, and in reference in this report, to refer to the organisation or entity rather than a data protection policy or compliance unit within the organisation or entity.

The rules

Rule 5.3 sets out the criteria for observer status. Rule 5.4 sets out the application process.

5.3 Observer status

The following entities and organisations can take part in the Conference, with an Observer status:

- a. Public entities that do not meet [the criteria provided for in article 5.1], but are involved in dealing with the protection of personal data and/or privacy.
- b. International organisations whose activity is related to the protection of personal data or privacy.
- c. Any other organisation that has granted Observer status to the Conference, under the principle of reciprocity.

Observer status may be granted for a particular annual meeting or for a period of time covering more than one annual meeting.

5.4 Submission of applications for accreditation as Observer

- a. Entities or organisations that meet any of the conditions provided for in article 5.3 may apply to the Executive Committee on the form provided by the Secretariat to be an Observer.
- b. Applications must be received by the Secretariat at least three months before the next Closed Session to be properly considered.

Secretariat comment

The **Danish National Police** have applied under 5.3a as an entity that is not eligible for membership but which is “involved in dealing with the protection of personal data and/or privacy”. It is difficult to see that the entity is involved in any greater way than other major organisations including all national police forces. Previous Executive Committees have been reluctant to recommend entities simply on the basis of their internal data protection compliance functions. The Secretariat proposes that the Executive Committee not recommend the application.

The **International Committee of the Red Cross** applies under 5.3b as an international organisation whose activity is related to the protection of personal data or privacy. The application focuses upon current activities of the Data Protection Office within the ICRC, which clearly is very active on data protection. The ICRC is actively working currently with the ICDPPC’s own Humanitarian Action Working Group (HAWG). At a higher level the organisation’s mission statement on its website explains that

“The International Committee of the Red Cross is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance.

“The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.”

The Secretariat is of the view that the ICRC meets the criteria for observer status in its own name as it is involved in the protection of privacy and data protection through its mission of promoting human welfare and the dignity of victims and through the organisation’s activities currently including a focus on data protection in humanitarian action. There is also an instrumental benefit in granting observer status at this time when the Conference is operating a HAWG. The Secretariat proposes that the Executive Committee recommend observer status for the ICRC for a 3 year period.

It should be noted that the ICRC made an application last year for observer status. The application had majority support on the previous Committee except that the FTC changed its vote the day before the closed session necessitating a compromise whereby the ICRC was admitted only to part of the closed session.

The **Baker & McKenzie** applies under 5.3b as an “international organisations whose activity is related to the protection of personal data or privacy”. The Secretariat does not accept that Baker & McKenzie is an “international organisation”. The rules do not elaborate on the phrase but a fairly uncontroversial definition offered on Wikipedia describes the phrase to mean:

“an organization with an international membership, scope, or presence. There are two main types: International nongovernmental organizations (INGOs): non-governmental organizations (NGOs) that operate internationally.”

While the concept continues to evolve it would seem to be quite unorthodox to consider a multi-national law firm to be an international organisation for admission to closed meetings of international forums. The Secretariat proposes that the Executive Committee not recommend the application.

Recommendation

The Secretariat recommends that the Executive Committee:

- Recommend observer status for the ICRC for a 3 year period;
- **Not** recommend observer status for the Danish Police or Baker & McKenzie.

Executive Committee Secretariat

4 July 2016

New Application to be accredited as an observer of the Conference (Public Entity)

Details of applicant
Name of entity
Data Protection Unit of the Danish National Police
Postal Address
Polititorvet 14, Att: Politiområdet - Databeskyttelsesenheden
City
Copenhagen
Postal Code
1780
Country
Denmark
Website
www.politi.dk
Details of contact person for this application:
Name
Christian Wiese Svanberg
Email
csv010@politi.dk
Description of applicant
Confirm
<ul style="list-style-type: none">• The applicant is a public entity• The applicant does not meet the criteria to become a Conference member

- The entity is involved in dealing with the protection of personal data and/or privacy

Briefly describe the entity's involvement in dealing with the protection of personal data and/or privacy

The newly establish Data Protection Unit of the Danish National Police is charged with promoting and ensuring the overall compliance with data protection law and principles within the Danish National Police. Tasks include formulating codes on the use of personal data, education initiatives, representing the Danish National Police in relevant EU and international forums (DAPIX, EUROPOL etc.), advising on day-to-day data protection issues, drafting data processing agreements, handling data breaches, responding to call for comments regarding proposed rule changes from the Council of Europe, EU and nationally concerning the protection of personal data within the police sector and the public sector at large etc.

The Head of Unit is also designated as the Chief Privacy Officer of the Danish National Police.

Duration of requested observer status

Duration:

for a period of time covering more than one annual conference

New Application to be accredited as an observer of the Conference (International Organisation)

Details of the Authority

Name of International Organisation

International Committee of the Red Cross Data Protection Office

Postal Address

19 Av de la Paix

City

Geneva

Postal Code

1209

Country

Switzerland
Website
https://www.icrc.org/en/document/data-protection
Additional Website
https://www.icrc.org/en
Details of contact person for this application:
Name
Massimo Marelli
Email
mmarelli@icrc.org
Description of Applicant
Confirm
<ul style="list-style-type: none">• The applicant is an international organisation• The activity of the international organisation is related to the protection of personal data or privacy
Briefly explain the ways in which the activity of the international organisation is related to the protection of personal data or privacy
<p>The ICRC Data Protection Office is the entity within the International Committee of the Red Cross (ICRC), a sui generis International Organisation, entrusted with ensuring the application and with the enforcement of the ICRC Rules on Personal Data Protection (Rules).</p> <p>The tasks of the ICRC Data Protection Office are clearly set out in the Rules (see in particular Chapter 5 Implementation). The Rules are available here: https://www.icrc.org/en/document/data-protection</p> <p>This application for observer status is made without prejudice to the capacity of the Data Protection Office to fulfil the requirements for full Membership. Application is for observer status only and not for Membership, to ensure compliance with the ICRC fundamental principles of neutrality, impartiality, and independence.</p> <p>The ICRC Data Protection Office has been very active, beyond its internal mandate, to promote data protection and privacy within International Organisations, as well as in the field of humanitarian action.</p> <p>As far as the former is concerned, the ICRC Data Protection Office has hosted a workshop on Data Protection within International Organisations, co-organised with the European Data Protection Supervisor, in February 2016 (more information is available here: https://www.icrc.org/en/event/5th-workshop-data-protection-within-international-organisations and here: https://secure.edps.europa.eu/EDPSWEB/edps/site/mySite/Intorg).</p>

As far as the latter is concerned, the ICRC Data Protection Office has been running a joint project with the Brussels Privacy Hub on data protection and humanitarian action (more information is available here: <https://www.icrc.org/en/document/data-protection-humanitarian-action> and here: <http://www.brusselsprivacyhub.org/project.php>). In the framework of this project the ICRC Data Protection Office and the Brussels Privacy Hub have been working closely with other humanitarian organisations and with the International Conference Working Group on the Resolution on Privacy and International Humanitarian Action.

Duration of requested observer status

Duration:

for a period of time covering more than one annual conference

New Application to be accredited as an observer of the Conference (International Organisation)

Details of the Authority

Name of International Organisation

Baker & McKenzie

Postal Address

Claude Debussylaan 54

City

Amsterdam

Postal Code

1082MD

Country

Netherlands

Website

<http://www.bakermckenzie.com>

Additional Website

<http://datasecurity.bakermckenzie.com/>

Details of contact person for this application:

Name

Wouter Seinen

Email

wouter.seinen@bakermckenzie.com

Description of Applicant

Confirm

- The applicant is an international organisation
- The activity of the international organisation is related to the protection of personal data or privacy

Briefly explain the ways in which the activity of the international organisation is related to the protection of personal data or privacy

Baker & McKenzie is one of the most international lawfirms of the world, having offices in 77 cities, in 54 countries. The international data protection & data privacy group is an internationally operating group of legal experts in the data protection area. No other lawfirm has as many CIPP certified lawyers and Baker & McKenzie's Global Privacy Handbook is a yearly updated standard work used by thousands of data protection professionals around the globe.

Duration of requested observer status

Duration:

for a period of time covering more than one annual conference

Additional comments

Further brief comments to explain or support the application may be added here:

Baker & McKenzie is a truly international organization. It is incorporated in a Swiss Verein to which the various local offices are a member. Baker & McKenzie is not a public entity, nor a non-for-profit organization, but it is an "international organization whose activity is related to the protection of personal data or privacy" as referred to in article 5.3.b. of the Conference Rules and Procedures.