

**26TH INTERNATIONAL CONFERENCE OF DATA PROTECTION AND
PRIVACY COMMISSIONERS
WROCLAW, POLAND, 14 SEPTEMBER 2004**

REPORT OF THE CREDENTIALS COMMITTEE

The commissioners from France, New Zealand and the United Kingdom were re-elected at the 25th Conference for a further 2-year term as the Credentials Committee. With the retirement of two commissioners, the Committee comprised:

- Alex Türk (replacing Michel Gentot), President of CNIL, France
- Marie Shroff (replacing Bruce Slane), Privacy Commissioner, New Zealand
- Richard Thomas, Information Commissioner, United Kingdom.

The Committee's role derives from the "Resolution on Accreditation Features of Data Protection Authorities" adopted at the 23rd conference. The Committee assesses each application received against the accreditation principles and recommends to the conference the authorities that ought to be accredited and in what category. The recommendations, in the form of a resolution, are the first item of conference business at the closed session.

The Credentials sub-group, which undertook the work on the Committee's behalf, comprised:

- Jonathan Bamford, Assistant Information Commissioner, United Kingdom
- Marie Georges, Head of European & International Affairs Division, CNIL, France
- Blair Stewart, Assistant Privacy Commissioner, New Zealand.

The sub-group uses a standard checklist to assess each application based upon the accreditation principles focusing upon whether:

- the applicant has clear and wide ranging data protection functions covering a broad area of economic activity
- the applicant is a public body established on an appropriate legal basis
- the applicant is guaranteed an appropriate degree of autonomy and independence to perform its functions
- the law under which it operates is compatible with international instruments
- the applicant has an appropriate range of functions with the legal powers necessary to perform those functions.

National level applications

Three applications were received for accreditation at national level. These were from:

- Korea: Korea Information Security Agency (KISA)
- Mexico: Federal Institute for Access to Information (IFAI)
- USA: Privacy Officer, Department of Homeland Security.

The KISA (Korea) application raised a number of complexities which had not been clarified by the time that the accreditation resolution had to be finalised. Some of these revolved around KISA's exclusively private sector jurisdiction and its institutional arrangements. The Committee will meet with KISA in Wroclaw on 13 September and

may be in a position to offer an oral recommendation to the conference after that meeting.

IFAI (Mexico) is an access review authority under a federal freedom of information law. In the Committee's view, its range of functions fell short of those expected of a data protection authority and accreditation is not recommended. The Mexican Government is currently considering whether Mexico should have a full data protection law. If such a law is adopted it is possible that a range of data protection functions will be vested with IFAI or another body. If that eventuates, a new application may be made.

The Privacy Officer of the Department of Homeland Security (USA) principally sought to attend as an observer but indicated that she would like to be accredited as a national authority if that were appropriate. The Committee studied the application and the extensive supporting documentation and concluded that applicant did not fully meet the requirements of the principles. The apparently restricted functions (and related powers) and area of competence were seen as barriers to accreditation. Questions were also raised as to whether independence was sufficiently guaranteed and at the "internal character" of the office. The application was passed to the conference host for a decision on attendance as an observer at the 26th Conference.

Sub-national level application

Only one application was received from an authority at the sub-national level. The application from the Catalan data protection agency met all requirements of the accreditation principles.

International and supra-national level applications

The European Data Protection Supervisor (EDPS) was the only applicant for accreditation at international or supra-national level this year.

The Committee has two tasks. The first, as with all applicants, is to assess the authority to see whether it meets the requirements of the accreditation principles. The second is specific to authorities at the international or supra-national level. That is to consider whether to recommend that the authority in question exercise a vote at the conference (refer clause 2, Addendum to Guidelines and Procedures for Conference Resolutions).

The Committee was satisfied that the EDPS should be recommended for accreditation. It was also satisfied that this was a suitable case to recommend the grant of voting rights. The Committee has not recommended voting rights with any previous applicant at international and supra-national level. However, the EDPS is clearly much broader in scope and scale than previous applicants with supervisory responsibilities over the complete activities of a large and diverse set of organisations.

Alex Türk
Marie Shroff
Richard Thomas
Credentials Committee