

**Conference of European Data Protection Authorities
26-27 May 2016 – Budapest, Hungary**

**Accreditation Procedure for Conference of European Data Protection Authorities
Report of the Accreditation Committee on the application for accreditation by the
Supervisory Commission for Personal Information of Monaco**

Introduction

According to the Guidelines for Admission to the Conference of European Data Protection Authorities, as adopted on 23 April 2004 during the Rotterdam Spring Conference of European Data Protection Authorities, the Accreditation Committee comprises of the former, current and next organizer of the Spring Conference of European Data Protection Authorities.

- The United Kingdom Data Protection Authority (ICO)
- The Hungarian Data Protection Authority (NAIH) and
- The Cypriot Data Protection Authority

The work of the Accreditation Committee was performed by an officer of each Authority, as follows:

- The United Kingdom Data Protection Authority: Ms. Hannah McCausland
- The Hungarian Data Protection Authority: Dr. Julia Sziklay
- The Cypriot Data Protection Authority: Mr. Constantinos Georgiades

Request for accreditation as member of the Conference of European Data Protection Authorities

On 28 April, 2016, the Accreditation Committee received a request for accreditation to be a member of the Conference of European Data Protection Authorities from the Supervisory Commission for Personal Information of Monaco (hereafter the ‘DPA’).

The assessment process

The application was examined together by all authorities participating in the works of the Accreditation Committee. According to the Guidelines for Admission to the Conference of European Data Protection Authorities the examination of the application focused on whether:

- the applicant DPA is a public body established on an appropriate legal basis;
- the law under which the applicant operates implements either the Council of Europe Convention 108 or European Union Directive 95/46/EC;
- the DPA has sufficient degree of independence and autonomy;
- the DPA has an appropriate array of functions combined with the power to perform these functions;
- the applicant DPA had filed an application in the correct category of membership;

Monaco

The English version of the Data Protection Act of Monaco which was adopted on 23rd December 1993 was made available to the Accreditation Committee.

The Supervisory Commission for Personal Information of Monaco (Commission de Contrôle des Informations Nominatives) was established by the Act No 1.165. An executive order of the law, the Sovereign Ordinance no 2.230, was also issued on 19th June 2009. The DPA's jurisdiction covers both public and private sectors. Automated processing of personal data which falls under the scope of private law is subject to declaration to the President of the DPA and its subsequent authorization by the DPA while automated data processing in the public sector is subject to a reasoned opinion of the DPA.

The main data protection principles enshrined in the Council of Europe Convention 108 can be found in the Act No 1.165:

- Fair and lawful processing (Article 10-1)
- Legitimate purpose principle (Articles 10-1, 10-2, 22)
- Proportionality principle (Article 10-1)
- Data quality principle (Article 10-1)
- Data retention principle (Articles 9, 10-1, 21.4)
- Grounds for processing of data (Article. 10-2)
- Special category of data (Article 12)
- Data minimization principle (Article 10-1)
- Deletion of unnecessary and outdated data (Article 10-1)
- Right to access public information and personal data (Articles 13, 15)
- Right of rectification, update, addition, blocking, erasure and destruction of data (Articles 13, 16, 21.2, 22.5)
- Data security (Articles 17, 17-1, 21.3)
- Transfers of data to another state (Articles 20, 20-1, 21.5, 26)

Article 2. Paragraphs 1-14, state that the DPA's role consists in the monitoring of personal data processing carried out in Monaco by public and private entities as well as by individuals. Articles 2 18, 18.1-2, and 19 sets out the jurisdiction of the DPA, which consists in authorizing data controllers and maintaining a register thereof, investigating complaints, conducting inspections and making recommendations as well as issuing warnings and formal notices to data controllers.

It is to be noted that the Supreme Court of Monaco in a decision of 8 November 2013 declared the Article 18 of Act No 1.165 contrary to the Constitution, challenging the DPA's power to perform on-site inspections. This situation was remedied by Act No 1.420 of 1st December 2015.

According to Article 2, the DPA has the fully independent remit of being in charge of registration, authorization, inspection. According to Article 5, the members of the DPA shall not receive instructions from any authority in the performance of their duties. As regards financial independence, Article 5-4 of the Act provides that the funding required for the operation of the DPA shall be listed in a specific chapter of the State budget.

Beyond the above, the Committee has the following recommendation regarding the Act:

- We would advise the authority to consider how to obtain the discretion to impose financial sanctions.

Upon the assessment of the application, the members of the Accreditation Committee recognize that the Supervisory Commission for Personal Information of Monaco meets all the necessary requirements.

Recommendation

The Accreditation Committee recommends:

- **to adopt the Resolution to accredit the Supervisory Commission for Personal Information of Monaco as member of the Conference of European Data Protection Authorities with the status of European national Data Protection Authority.**

27 May 2016