



40TH International Conference of Data Protection and Privacy Commissioners
Tuesday 23rd October 2018, Brussels

RESOLUTION TO AMEND THE ICDPPC RULES AND PROCEDURES

Pursuant to the consultation of members carried out in 2017-18 and the Roadmap presented by the Future of the Conference Working Group, the 40th International Conference of Data Protection and Privacy Commissioners resolves to amend its Rules and Procedures¹ in the following manner: [new text in underline, deleted text in strikethrough]

1. To promote operational exchanges, section 2.1 (“The Annual Meeting”), paragraph 3 is amended by adding the following:

The annual meetings shall consist of a Closed Session (hereinafter, the Closed Session). At the discretion of the Executive Committee and the Hosting Authority, the annual meeting should seek to include, without prejudice to ordinary business and debates, during the Closed Session, dedicated occasions for members to share and exchange operational and practical experiences. The decision whether to hold an open meeting in conjunction with the Closed Session, with participation from governments, industry, academia and civil society, should be left to the Hosting Authority.

Explanatory note: The ICDPPC’s purposes include “[improving] data protection and privacy by providing a forum that encourages dialogue, cooperation and information sharing” and “encouraging and facilitating] cooperation and the exchange of information among accredited members, in particular regarding enforcement action.”

This amendment aims to encourage those purposes are fulfilled and is in response to members’ request to allocate time for operational exchanges on the daily activities, experiences and challenges of data protection authorities, while giving the Executive Committee and Hosting Authority sufficient flexibility in organizing such sessions.

¹ ICDPPC Rules and Procedures: Consolidated version (October 2017) available at: <https://icdppc.org/wp-content/uploads/2015/02/Rules-and-Procedures-incl-amendment-adopted-at-39-Conference.pdf>

2. To give additional detail regarding attendance at the Closed Session, section 2.3 (“Closed Session decision-making”), paragraph 1 is amended as follows:

The Closed Session will be co-chaired by the Chair of the Executive Committee and by the Hosting Authority of the Annual Meeting. The Closed Session can be attended by accredited members and observers only.

Explanatory note: The ICDPPC’s purposes include “[being] a meeting point between accredited members and other international fora or organisations that share common objectives.”

The amendments respond to members’ desire for clarification on who can attend the Closed Session and on the distinction between members and observers for the purposes of participating in the Closed Session and in the decisions of the Conference.

Under the rules, public entities that do not meet membership criteria but are involved in dealing with data protection or privacy, and international organisations whose activities are related to the protection of personal data or privacy, can become observers. Observers do not vote on Conference resolutions or decisions.

3. To guarantee diversity in the composition of the Executive Committee, section 3.1 (“The Executive Committee”), paragraphs 1 and 2 are amended as follows:

The Conference shall be managed and represented by an Executive Committee. The Executive Committee will consist of ~~six~~ five elected members. ~~Four~~ of ~~these~~ members, representing national authorities, will be elected by the Closed Session for two year terms. The other two members will be the immediate past Hosting Authority and the next Hosting Authority (in the event of co-Hosting Authorities, these authorities are to share their Executive Committee seat). The members of the Executive Committee may not be elected for more than two consecutive terms. In order to ensure continuity, the ~~elected~~ members of the Committee will have offsetting terms. The Secretariat shall not have a separate right to vote.

~~Insofar as possible, the members of the Committee shall represent different cultural, geographic and legal backgrounds.~~ To the extent possible and to encourage diversity in the cultural, geographic and legal background of the Executive Committee, at least one member – and no more than two members – will be elected from each of the following four regions: Africa/Middle East, the Americas, Asia/Oceania, and Europe. Identification with a region is at the discretion of each member.

Explanatory note: Cultural and linguistic diversity are features of the Conference, as stated in section 6.1 of the Rules. Indeed, the Rules encourage, at several points, diversity in cultural, geographic and legal backgrounds (in the composition of the Executive Committee, in the selection of hosting authority and in the co-sponsoring of resolutions or declarations).

This amendment responds to members’ desire to have diversity and representativeness mandated in its Executive Committee, particularly as the Conference becomes more global and seeks to become more influential.

Under the proposed amendment, all five voting members must now be elected and represent one of the four identified geographic regions. Any one region cannot have more than two voting members on the Executive Committee. The total number of five voting members serves the purpose of maintaining a manageable committee size and an odd number in case of votes.

The past and upcoming Hosting Authorities remain members of the Executive Committee mainly to coordinate and facilitate the planning of the Annual Meeting and assist with their gained institutional knowledge. There are no limitations on Hosting Authorities wishing to seek election onto the Executive Committee at the end of their hosting duties.

4. To strengthen ICDPPC representation at important meetings, section 3.1 (“The Executive Committee”), paragraph 4 is amended as follows:

One of the elected members of the Committee will be elected by the Closed Session to serve as the Chair of the Committee. The Chair will be responsible for convening and chairing the meetings of the Executive Committee. As required, the Chair, ~~or a member of the Committee,~~ or an ICDPPC member designated by the Committee may represent the Conference and report back on its representation. [...]

And Section 3.2 (“Functions of the Executive Committee”), subsection (f) is amended as follows:

- f. To appoint, for renewable two-year terms, representatives of delegates representing the Conference to attend and report back from those fora and/or international organisations in which the Conference has observer status or to which the Conference may be invited to attend. Insofar as possible, the delegates shall be representing different cultural, geographic and legal backgrounds.

Explanatory note: The ICDPPC’s purposes include “[promoting and enhancing] internationally personal data protection and privacy rights.

The ICDPPC is currently an observer to several international organizations and fora, including the Organisation for Economic Co-operation and Development (OECD), the Asia-Pacific Economic Cooperation (APEC) Electronic Commerce Steering Group and the Council of Europe consultative committee on Convention 108 (T-PD).

The amendments above aim to ensure the Conference is adequately represented at these fora and at others it may be invited to or may join, and for this representation to come with a duty to report back to the Conference on the attended meetings. The long-term goal is to reinforce the ICDPPC’s presence and participation internationally.

5. To ensure clarity in hosting applications involving more than one authority, section 3.2 (“Functions of the Executive Committee”), subsection (c) is amended as follows:

- c. To seek proposals from member authorities by a specified deadline to host or co-host the Annual Meeting; to evaluate such proposals; and to recommend a hosting or co-hosting authority to the members of the Conference with sufficient time to allow the selected hosting or co-hosting authority to execute orderly preparations.
 - i. If no member objects within a period designated by the Executive Committee, the recommendation will become the decision of the Conference.
 - ii. If any member objects, the Executive Committee will as soon as practicable arrange for a membership electronic vote on the recommendation.

Explanatory note: In keeping with the encouragement of diversity by the Conference, and in seeking greater participation and representativeness in its governance and activities, the amendment above clarifies the possibility for members to present joint bids to host the Annual Meeting.

Proposals to co-host can come from multiple authorities of the same country, neighbouring countries, the same region or network.

6. To encourage diversity in the composition of Working Groups and to clarify the participation of observers, section 3.3 (“Working Groups”), paragraph 1 is amended as follows:

Working Groups are composed of members of the Conference. Observers can be invited to participate in Working Groups on an ad hoc basis. Participation is voluntary. Working Groups are to be chaired by one or more member authority, and can come from the same or different regions. Working Group Chairs shall take steps to encourage participation from all regions. Insofar as possible, a Working Group’s members shall represent different cultural, geographic and legal backgrounds.

Explanatory note: Also in keeping with the theme of diversity, and in seeking greater participation and representativeness in its governance and activities, this amendment clarifies the structure of Working Groups. Further, diversity in the composition of Working Groups is also encouraged by seeking that its membership be varied.

Lastly, the change to allow observers on an ad hoc basis clarifies a point that has been raised in the past regarding their participation in Working Groups.

7. To clarify the process for the drafting, adoption and implementation of resolutions and declarations, section 4 (“Resolutions”), is amended as follows:

4.1 Submission of proposed Resolutions or Declarations

Members or Working Groups may submit proposed resolutions or declarations to the Chair of the Executive Committee with a copy to the Hosting Authority for consideration at the Closed Session.

Proposed resolutions or declarations must be submitted at least ~~six~~ eight weeks before the next Closed Session, to enable the text to be circulated to all Members of the Conference and for the proposal of amendments. Where the resolution concerns complex technical or policy issues or relates to a topic that otherwise may require a longer review and comment period prior to the Closed Session, sponsors of resolutions are encouraged to provide such longer time to facilitate consensus resolutions. In exceptional cases, and after approval of the Executive Committee, proposed resolutions or declarations may be submitted less than eight weeks before the Closed Session.

Proposed resolutions or declarations must have at least ~~three~~ four other cosponsors, representing, insofar as possible, different cultural, geographic and legal backgrounds.

4.2 Expression and usefulness of resolutions

Proposed resolutions or declarations should be:

- clearly and concisely expressed;
- address matters that are sufficiently related to the purposes of the Conference; ~~and~~
- an offer of enduring guidance or contribute contributing to public debate on matters related to data protection of privacy rights; and
- made available in English and the language of other major linguistic communities.

4.3 Structure of resolutions

Proposed resolutions or declarations shall consist of the following parts:

- a. Title
- b. Member or members that submit the proposal – the sponsor(s)
- c. Members that support the proposal – the co-sponsors
- d. Recitals (optional)
- e. Body of the resolution or declaration
- f. Explanatory note (optional)
- g. Annex or annexes (optional)
- h. Suggestions for implementation (optional)

4.4 Voting on resolutions

Upon debate and the answering of questions by the member or Working Group that submitted the proposed resolutions or declarations, it will be voted on by the accredited members at the Closed Session according to the rules set out above in 2.3.

4.5 Implementing resolutions

The member or Working Group that submits a resolution or declaration that is adopted shall provide a point of contact for the year following its adoption so that members who have questions, seek clarifications or wish to have more information on how to implement the resolution or declaration can do so.

Members are encouraged to share with the Secretariat any domestic or regional actions taken as a result of or in reference to the adoption of a Conference resolution or declaration.

Explanatory note: The ICDPPC's purposes include "[drafting and adopting] joint resolutions and declarations on subjects that warrant the common interest or concern of the accredited members, and promote their implementation."

The amendments above respond to members' comments that the resolution drafting and adoption process allow for clearer processes and timelines, and that resolutions be more thoroughly discussed before adoption. In addition, the amendments include provisions related to the linguistic diversity of the Conference, the implementation of resolutions and the reporting back of implementation efforts to the Secretariat.

The long-term goal is to improve resolutions, both in process and in content, so that they can provide the Conference and its members with policy tools to advance privacy and data protection internationally.

6.2 Conference documents

~~All~~ Without prejudice to section 4.2, conference documents, including ~~proposed resolutions~~ and accreditation and observer applications may be submitted in English or in another language. In the latter case, the documents shall be accompanied by an English version. Members with the ability and the resources to do so are encouraged to translate proposed resolutions and other conference documents such as the Conference Rules and Procedures.