

DATA PROTECTION NEWS FROM AROUND THE WORLD

International Organizations

Council of Europe: Two corrections from the February issue by Lawrence Early, Secretary of the Division of Public Law in the Council of Europe's Directorate of Legal Affairs:

1. Italy has signed the Council of Europe Convention on Data Protection.
2. There is no working party devoted specifically to data collection, although this is, of course, an issue which is analysed in the context of all the sectoral working parties.

This means that the Convention has been signed by all EEC countries except the Netherlands. The Netherlands is expected to sign in the next few months (see p. 18).

Organization for Economic Cooperation and Development: With the Republic of Ireland signing the OECD Guidelines in January this year, all 24 member countries have now done so. Only half of the members have passed legislation to implement the Guidelines. However, there are some signs of movement in the other countries (see entries on Australia, Canada and Japan).

It has been mainly United States based companies and trade associations that have formally supported the OECD Guidelines in recent years. They should not become complacent but should expect questions on the steps they are taking to implement the Guidelines in the months ahead.

Although the OECD's Committee for Information, Computer and Communications Policy has now shifted its attention to trade issues like telecommunications policy and computer crime, companies should think of the OECD position on the privacy issue as lying low rather than having gone away.

Countries with data protection laws

Austria: Austria's revised law simplifies the rules on the export of name-linked data (see page 10).

Denmark: Denmark's Folketing (legislature) has discussed the proposed amendments to the data protection act (see PL&B February '87 p.2). Nylokke Jorgensen of Denmark's Data Surveillance Authority says that the intention is for the amendments to come into force on October 1st this year.

Finland: Finland passed a data protection act in February just before the election. For further details, see page 14. An English

translation of the new law should be available in about October.

Jersey: Jersey, part of the Channel Islands, is a self-governing entity within the United Kingdom, and financial services are a significant factor in its economy.

As a result, the States of Jersey passed the Data Protection (Jersey) Law on April 30th this year. The law provides for the establishment of a Data Protection Registrar in Jersey with functions broadly similar to those of the Data Protection Registrar in the United Kingdom (see PL&B February '87 p.4). In late May, the law was awaiting the assent of the Queen-in-Council and until then no text is available.

There will be a process of registration similar to that of the UK, although the Jersey government hopes to simplify the form. Anyone who is a data user in Jersey will have to register in Jersey. The registration fee will be about £20 and a registration will be for at least three years. Data subject rights will begin to operate in Jersey on November 11th this year, which is the same date as the UK law comes fully into effect.

Companies do not need to take action right now, as registration will probably begin on September 1st and forms are not yet ready. There will be publicity on how to register before September 1st. When the Jersey Data Protection Registrar is appointed, he will work from the office of the Judicial Greffe.

The Jersey government tells PL&B that although it has not yet prepared any explanatory literature, the Jersey law will work in a similar way to the UK's data protection act.

Countries planning data protection laws/rules for companies

Belgium: The timetable for a parliamentary discussion of the data protection bill (see PL&B '87 p.x) should be decided by the end of June. In the absence of domestic legislation, the courts look toward the Council of Europe Convention for guidance on standards. This, for example, was their attitude when Sweden's Data Inspection Board banned the export of name-linked data to Belgium.

Canada: Joe Clark, External Affairs Minister, last December wrote to approximately 150 chief executive officers of Canada's major corporations to bring to their attention the Federal Government's commitment to "international economic co-operation and the protection of personal privacy." He asked for their company's voluntary support for implementing this commitment in "a manner that will be economically and socially beneficial to all Canadians."

After explaining the principles of the Guidelines, he wrote, "I believe that adherence to the Guidelines will facilitate access

for Canadian companies to data from abroad; thus allowing them to participate in the economic benefits which result from the flow of information across national boundaries."

He stated that some 200 United States based leading companies have indicated their support and then added: "As long as legislation regulating the protection of personal information is not passed by a member state, a critical element to the successful implementation of the Guidelines is clearly the voluntary compliance and support of the private sector. I am therefore asking you for your wholehearted assistance in complying with the Guidelines."

In a separate letter to provincial ministers, the External Affairs Minister issues a stronger warning: "If the private sector does not take action to implement the Guidelines, there is a risk that other OECD countries could restrict or prohibit the flow of personal data to Canada. This clearly would have adverse economic consequences for Canadian businesses."

He then asks the provincial governments to "support our efforts to implement the Guidelines through self-regulation by the private sector and that, where possible, you will take appropriate action to reinforce these efforts."

PL&B will monitor this strengthening of the Canadian government's policy on the privacy issue, as it provides something of a test, from a European perspective, for the OECD Guidelines as a credible alternative to the Council of Europe Convention.

Greece: It is expected that Greece's data protection bill will be presented to the legislature in October this year. See page 6.

Ireland: Ireland signed the Council of Europe Convention in December and the OECD Guidelines in January, indications that the government was near to introducing a data protection bill into the Dail (legislative assembly). In a parallel but separate exercise, a parliamentary joint committee was preparing a bill on data protection and freedom of information (public access to government information). The joint committee lapsed with the general election and had not yet been reformed by early May.

Following the election, the new government has given priority to data protection and has speeded up the pace of consultation with government departments on the latest version of the bill. Ministries were asked for their comments by mid-May. A revised bill could be published in the next few months. The intention is to comply with the Council of Europe Convention by steering a middle way between over-bureaucracy and self-regulation.

Italy: Professor Stefano Rodota, member of the Chamber of Deputies, says that members of the legislature, the government and the data protection working party of Confindustria (the major

industry federation) have had intermittent discussions on a new data protection bill since the last one was dropped by the Justice Minister about two years ago. The subject is expected to be put back on the agenda after the June election.

One issue to be resolved is whether the labour law should be amended to cover, or whether a privacy law should extend to automated supervision of workers. This would cover, for example, video monitoring and the use of hidden microphones at work.

Japan: Until now there has been a data protection law covering only regional government. But the government is now actively studying a bill to extend data protection principles to national government departments.

The Netherlands: The revised data protection bill, offering self-regulation within a framework of law, is being discussed in the lower house of the legislature (see p. 18).

Portugal: Parliament was dissolved for an election on July 19th before there was any discussion on Portugal's data protection bill (see PL&B February '87 p.x). Some sectoral legislation, for example, on social security, contains one or two provisions on data protection. Although the subject has not yet attracted much public opinion, Portugal's membership of the EEC helps focus public attention on the subject.

Switzerland: The Justice Minister has now postponed publication of the revised federal data protection bill until the end of the year. Although the main structure of the bill will remain the same (see PL&B February '87 page x), the Minister apparently considered the language too legalistic! In short, he wants it more simple and concise. Although, there will be a federal election in October, no great changes in the composition of the coalition, and therefore the contents of the bill, are expected.

Meanwhile, on February 11th this year, the Italian-speaking canton of Ticino passed a data protection law for records collected and processed at the cantonal level of government.