

# Privacy in Central and Eastern Europe

At PL&B's Annual International conference in July, **Daniel Cooper**, of law firm Covington & Burling, provided an update on data protection developments in Central and Eastern Europe. **Professor Colin J Bennett reports.**

**D**aniel Cooper reported on legislative developments in ten Central and Eastern European countries: the Czech Republic, Poland, Hungary, Romania, Bulgaria, Slovenia, Slovakia, Latvia, Lithuania and Estonia. Although there has been much legislative activity with regard to data protection in this region of the world, progress towards adequate levels of data protection has been uneven. The major driver for law is obviously the EU accession process. The EU Article 29 Working Party maintains a watching brief, even though only the Hungarian law has so far been judged to offer an 'adequate'

protection law. For example, the Czech Republic and Spain have been twinned under this arrangement. The CEEC (Central and Eastern European Countries) Association also provides a useful forum for the sharing of legislative experiences.

When one comes to examine the experiences of individual states, however, it is apparent that compliance with data protection norms tends to be weaker the further one goes east. In the Czech Republic, Hungary and Poland, there now exist data protection laws which appear in good alignment with the EU standard. However, there are concerns about

some more obvious weaknesses, and is expected to be amended by 2005. Slovenia passed a law in 1999, overseen by a data protection inspectorate operating jointly, but not independently from, the Human Rights Commission. The Slovakian law is very recent, and is overseen by an Office for Personal Data Protection. In each of these countries, however, it is very early days for the data protection regulators. And the same is true for the three Baltic states (Latvia, Lithuania and Estonia), each of whom passed data protection legislation in 2003.

According to Cooper, there is a relatively optimistic outlook for data protection in the region. One might expect continued collaboration within Eastern and Central Europe, and between individual countries and their counterparts in Western Europe. In most countries, we are also likely to see targeted legislative amendments in response to EU standards, articulated through the EU Article 29 Working Party. But, observers will also be watching for the supervisory authorities to become more active in investigating and prosecuting abuses of personal data.

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level of protection under procedures laid out by the EU Data Protection Directive. Some countries in the region also have to meet existing obligations under the Council of Europe's Treaty (108) on data protection.

On a regional level, there are some interesting collaborative projects of note. The PHARE programme is one of the pre-accession instruments designed to assist countries in preparing their applications for admission to the EU. Twinning arrangements with existing EU member states provide opportunities for states from Eastern and Central Europe to learn directly about data protection experiences in countries with longer histories of data

some overly broad exemptions relating to the financial sector in the Czech law. Registrations of data controllers in all three countries is also much lower than expected. And of course, the oversight by supervisory authorities is variable, and highly dependent on resources. Nevertheless, in all three countries, there are well-established data protection regimes which in some respects are more restrictive than EU standards.

A 2001 law in Romania seems very consistent with the EU model, even though there is no data protection commissioner, oversight being the responsibility of the Human Rights Ombudsman. The Bulgarian law has

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