

# Resolution on International Enforcement Coordination



*Recalling* the Resolutions of the 29<sup>th</sup>, 33<sup>rd</sup> and 34<sup>th</sup> Conferences that:

- encouraged privacy enforcement authorities to further develop their efforts to support international co-operation and to work with international organisations to strengthen data protection worldwide, and
- welcomed the adoption of the Organisation for Economic Co-operation and Development (OECD) Recommendation on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy;

*Recalling* that the 33<sup>rd</sup> Conference set up the International Enforcement Coordination Working Group as a temporary working group to develop a framework to facilitate possible coordination, and to report back to the 34<sup>th</sup> Conference; and

*Noting* that the working group reported back with a Framework containing six recommended coordination principles; and

*Further Recalling* that the 33<sup>rd</sup> Conference resolved to seek to ensure that there is at least one opportunity each year for those interested in issues of privacy enforcement and coordination to meet and noting the subsequent meetings arranged in Montreal and Washington DC;

*Mindful* that recent cases have once again demonstrated how the practices of global corporations, or security breaches affecting their information systems, can quickly and adversely affect the personal information of vast numbers of individuals across the world;

*Building* on significant progress which has been made in recent years at regional and international level to enhance arrangements for cross-border cooperation in the enforcement of laws protecting privacy, including efforts by APEC, the data protection authorities of the Article 29 Working Party, the OECD, the Council of Europe, the network of Francophone authorities, the Ibero-American network and GPEN;

*Concluding* that increased coordination would increase the effectiveness of privacy enforcement authorities in cases involving the processing of personal information in multiple jurisdictions:

**The 35<sup>th</sup> International Conference of Data Protection and Privacy Commissioners therefore resolves** to further encourage efforts to bring about more effective coordination of cross-border investigation and enforcement in appropriate cases and, in particular:

1. **To mandate** the International Enforcement Coordination Working Group to work with other networks to develop a common approach to cross border case handling and enforcement coordination, to be expressed in a multilateral framework document with a view to adoption at the 36th Conference. This approach is to build on the international enforcement coordination framework presented to the 34th Conference and the work of GPEN, and is to address the sharing of enforcement-related information, including how such information is to be treated by recipients thereof. This work is not intended to replace existing national and regional conditions and mechanisms for sharing information, or to interfere with similar arrangements by other networks.
2. **To encourage** privacy enforcement authorities to look for concrete opportunities to cooperate in particular investigations with cross-border aspects.
3. **To support** the development of a secure information platform which offers a 'safe space' for privacy enforcement authorities to share confidential information and, to facilitate the initiation and conduct of coordinated enforcement action and, complement other international enforcement coordination mechanisms, adding value to the international enforcement operational framework.

## **Explanatory note**

The aim of this resolution is to build on previous resolutions encouraging cooperation in cross-border privacy enforcement. All members of the International Conference are invited to join in meeting the objectives of this resolution that seeks to galvanise existing mechanisms, build on and improve them as well as ensure that new and innovative ways to achieve international enforcement coordination are identified, explored and exploited.

The Resolution recognizes that the Global Privacy Enforcement Network (GPEN) remains the only global network devoted solely to enforcement cooperation in which all privacy enforcement authorities can participate and encourages authorities to join GPEN and help make it more effective.

In order to help further build on existing efforts and develop concrete mechanisms that shape and facilitate international enforcement coordination, the Information Commissioner's Office, United Kingdom, will host the third annual international enforcement coordination event in Manchester in April 2014.

Given technological change and the ease with which personal information can be shared across the globe, privacy enforcement authorities must develop the necessary tools and mechanisms to coordinate with one another so as to adequately respond to the demands of their respective citizens for effective oversight of such phenomena.

Whilst there are existing cooperation and coordination mechanisms, privacy enforcement authorities must look to other relevant international organisations such as APEC, the data protection authorities in the Article 29 Working Party, the Council of Europe and the OECD and take inspiration from them in developing their own legal and technical framework.

Some existing laws contain restrictions on sharing information on potential or ongoing investigations. Therefore, some privacy enforcement authorities may need to fulfil certain domestic conditions before sharing information across borders. This has often been facilitated through Memoranda of Understanding (MoUs) or regional arrangements. By developing such an approach which is multilateral in scope, we may help alleviate administrative burdens, speed up the process and thus foster increased sharing of enforcement-related information. Authorities who prefer, for legal or other considerations, to develop bilateral and regional cooperation arrangements or memoranda of understanding should continue to do so. These are not precluded by the work proposed in item 1 above.

The information platform proposed in this resolution is intended to support the work of GPEN authorities and be based on a layered approach where authorities can make decisions about sharing information with other authorities with confidence that they have made shared commitments and have similar functions and obligations.

Although it is unlikely that every case can be accommodated within a 'one size fits all' approach, this should not prevent the goal of documenting the common understandings that help facilitate information sharing and improved coordination and cooperation.