



## 42ND CLOSED SESSION OF THE GLOBAL PRIVACY ASSEMBLY

OCTOBER 2020

### ADOPTED RESOLUTION ON JOINT STATEMENTS ON EMERGING GLOBAL ISSUES

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## **The 42<sup>nd</sup> Annual Closed Session of the Global Privacy Assembly**

Recalling that:

- a. The Vision of the Assembly is an environment in which privacy and data protection authorities are able to act effectively to fulfil their mandates, both individually and in concert, through diffusion of knowledge and supportive connections;
- b. An important element of the Assembly's mission is to provide leadership at the international level in data protection and privacy;
- c. The Resolution on the Assembly's Strategic Direction adopted at the 41<sup>st</sup> Conference recognised the need to strengthen the Assembly's policy role and to maximise its voice and influence in advancing privacy and data protection at an international level;
- d. Under the Rules and Procedures, the Executive Committee of the Global Privacy Assembly is tasked with providing leadership in attaining the Assembly's strategic goals.

Noting that:

- e. The ever expanding digital economy and digitalisation of public services transcends territorial boundaries and, in this era of rapid digital innovation and development, data protection and privacy issues can emerge quickly in one jurisdiction and require swift attention to protect citizens in that and other jurisdictions;
- f. Clearly articulated statements are influential in bringing universally held privacy and data protection considerations to the fore of public debate when novel issues emerge that have global potential.

## **The 42<sup>nd</sup> Annual Closed Session of the Global Privacy Assembly therefore resolves to:**

1. Adopt the proposed procedure set out at Annex A, the amendments to the Rules and Procedures set out at Annex B, and the accompanying explanatory note, to allow the Assembly to co-operatively work together in a proactive way throughout the year to:
  - a. have an active voice which promotes a global regulatory environment based on commonly held principles of data protection, and thus provide consistent, predictable and articulated reminders of the privacy issues that must be considered by those subject to regulation;
  - b. where new products or services have the potential to impact data subjects on a global scale, to use the GPA's active voice to encourage those designing such new products and services to be proactive in demonstrating how they have accounted for privacy risks.

2. Agree that, as the global network of privacy and data protection authorities, the Assembly has an important role to play in providing members with the opportunity to work together in developing clear expectations of the data protection community.
3. Agree that the Executive Committee should facilitate the timely and transparent development of statements or other initiatives on behalf of the membership in accordance with the procedure set out at Annex A.
4. Encourage all members to:
  - a. be alert to identifying issues of potential global concern, to bring these to the attention of the Executive Committee and to work with the Executive Committee in developing a GPA joint statement or other initiative;
  - b. give active consideration to joining and supporting such statements when open for member signing, bearing in mind that the GPA community is most effective when it can demonstrate a united and global voice.
5. Agree to review the effectiveness of this procedure at the Closed Session in 2021.

## Annex A: Procedure for GPA Joint Statements on Emerging Global Issues

To give practical effect to this resolution, set out below in table format is a clear and transparent process for developing GPA joint statements and appointing rapporteurs.

Type	Scenario	Action	Required change to Rules and Procedures
1	<ul style="list-style-type: none"> <li>• Exceptionally time critical Emerging Global Issue arises</li> <li>• Issue would benefit from a Statement that is not controversial in content or context</li> </ul> <p>Executive Committee Statements are warranted when a statement is particularly time critical (i.e. publication is needed within a matter of days).</p> <p>NB An Executive Committee Statement would not preclude the possibility of a later statement on the same topic from a wider GPA constituency, where a further statement would have merit in adding detail and analysis.</p>	<p><b>Executive Committee Statement</b></p> <p><b>Content</b> As a leadership statement, these statements should only be made where they are not controversial in their content and context (similar to Christchurch or COVID-19 statements). They are primarily being used to demonstrate GPA awareness and engagement with the emerging global issue at hand, but not seeking to provide new strategic direction which is the preserve of the Closed Session.</p> <p><b>Process</b> The Emerging Global Issue is so ubiquitous and high profile that Executive Committee reaches a unanimous decision (likely out of session) to issue an Executive Committee statement in relation to that Emerging Global Issue.</p> <p>OR</p> <p>GPA members, in particular but not limited to those with a strong local relevance or insight into the Emerging Global Issue, can propose or present draft statements to the Secretariat for consideration by the Executive Committee.</p> <p>Members will be informed of the publication of an ExCo statement prior to its release. When available, a draft or final statement will be circulated by the secretariat when informing members. Members will be encouraged to republish these</p>	<p>A clarification of the Rules and Procedures to recognise that this action is already available to the Executive Committee as part of its functions under rules 3.2aa and 3.2e of the Rules and Procedures.</p> <p><i>See Annex B for proposed amended text</i></p>

Type	Scenario	Action	Required change to Rules and Procedures
		statements, highlighting relevant aspects for their own jurisdiction.	
2	<ul style="list-style-type: none"> <li>• A timely statement on an Emerging Global Issue is desired, but the issue is less time critical than the above scenario for an Executive Committee Statement.</li> <li>• Issue is still too novel or emerging to necessarily wait for a potential resolution to be prepared for Closed Session via a Rapporteur (see Rapporteur section below); and GPA wishes to signal publicly its early engagement</li> <li>• Statement is factual in nature and high level in its discussion of the data protection/privacy issues</li> </ul>	<p><b>GPA Statement</b> Where the issue is less urgent but the Executive Committee judge that timely action is needed, a draft statement or other action (see <i>Appointment of Rapporteur</i> below) will be proposed to the GPA membership.</p> <p><b>Content</b> These Statements will factually explain the Emerging Global Issue and set out (at a high-level only) the universal data protection/privacy principles that are of concern.</p> <p><b>Process</b> The preparation of a draft GPA statement shall be communicated to all members, together with a call for a rapporteur(s). A draft shall be circulated for comments, with a deadline of 7 days for responses. The rapporteur(s) shall make best efforts to integrate the comments received and reach a consensus draft on this basis. Where significant changes have been proposed, the rapporteur may circulate a revised version with a further period of 7 days for comment.</p> <p>Once a draft is finalised, GPA members will be given a 14 day period to abstain or opt out from the GPA statement. This will be noted in a footnote to the GPA statement with an explanation from the abstaining/opting out member if required by the member.</p> <p>NB If more than 10% of members opt out or abstain, the statement will not be issued in this format. See Note A below.</p>	<p>An <b>amendment</b> to the Rules and Procedures to establish a process for the Executive Committee to put forward draft statements for consideration by the membership outside of the Closed Session, under rule 3.2(e) of the Rules and Procedures.</p> <p>An <b>amendment</b> to the Rules and Procedures to note that the voting procedures in respect of National Authorities casting their decision on behalf of their country, as under rule 2.3 will also apply to draft GPA Statements proposed to be made outside of the Closed Session.</p> <p><i>See Annex B for proposed amended text</i></p>

Type	Scenario	Action	Required change to Rules and Procedures
		<p>The Executive Committee will be responsible for overseeing this process, including the appointment of rapporteur(s) and developing a procedure for considering amendments to the draft statement. The Executive Committee will also look to ensure that members are given enough time to provide translations to the statement.</p> <p>Members will also be invited to re-publish the GPA Statement through their own communication channels and provide further details on how the GPA Statement could be interpreted in their own jurisdiction.</p>	
Type 1 or 2	A <b>Rapporteur</b> could be appointed where a particular issue is still developing, and its full implications are unknown, or where follow-up action is required beyond the initial statement.	<p><b>Appointment of Rapporteur</b></p> <p>Concurrently with either of the types above, the Executive Committee, following a call for interest, may appoint a Rapporteur or a group of co-rapporteurs from among the GPA membership (including subnational jurisdictions) for the Emerging Global Issue. The Rapporteur(s) will be mandated to explore the Emerging Global Issue, and report back to the GPA membership, including proposing a statement or resolution at the Closed Session. The Rapporteur may consult with observers and relevant external experts to inform their examination of the issues. The Executive Committee may choose to make a statement on the appointment of the Rapporteur(s) in order to flag publicly that this is an issue they are looking at carefully.</p>	<p>A <b>clarification</b> of the Rules and Procedures to recognise that this action is available to the Executive Committee as part of its functions under rule 3.2aa and 3.2e of the Rules and Procedures.</p> <p><i>See Annex B for proposed amended text</i></p>

**Note A: What if a GPA Type 2 statement fails to gain requisite support for a GPA-wide statement, but some members still wish to pursue it?**

Where a timely statement on an Emerging Global Issue is proposed and initial preparations take place, but 10% or more of members do not support it, individual members would not be precluded from joining together to present a statement in their independent DPA names. Such statements would not, of course, carry the GPA branding or logo. Members are, however, reminded that our community is most effective when it can demonstrate a global voice. Therefore even without GPA branding on such statements, members are reminded of the ethos of GPA and encouraged to give serious consideration to joining such statements.

## Annex B: Rules and Procedures clarifications or amendments

### 1. Outline of required amendments

This resolution calls for the following, in relation to the Rules and Procedures:

- ExCo statements: A **clarification** of the Rules and Procedures to recognise that this action is already available to the Executive Committee as part of its functions under rules 3.2aa and 3.2e of the Rules and Procedures.
- Appointment of a rapporteur: A **clarification** of the Rules and Procedures to recognise that this action is available to the Executive Committee as part of its functions under rule 3.2aa and 3.2e of the Rules and Procedures
- GPA statements: An **amendment** to the Rules and Procedures to establish a process for the Executive Committee to put forward draft statements for consideration by the membership outside of the Closed Session, under rule 3.2e of the Rules and Procedures.
- GPA statements: An **amendment** to the Rules and Procedures to note that the voting procedures in respect of National Authorities casting their decision on behalf of their country, as under rule 2.3 will also apply to draft GPA Statements proposed to be made outside of the Closed Session.

### 2. Explanation for amendments

Under the existing Rules and Procedures, the Executive Committee is mandated to provide leadership to the Assembly in attaining its strategic goals, and to draft press releases, statements and any other media resources. The strategic goals include advancing global privacy in a digital age and maximising the GPA's voice and influence.

Executive Committee statements to highlight GPA awareness and engagement with an emerging privacy issue of potentially global relevance are consistent with the fulfilment of this mandate, as is the appointment of a rapporteur or rapporteurs to coordinate drafting and/or to explore such emerging issues and to report back to the membership at the Closed Session. As such, for the abundance of clarity and transparency, the Rules and Procedures will be amended to clarify that these actions are open to the Executive Committee in carrying out the functions stipulated under Rule 3.2a and e.

To provide a clear and transparent mechanism by which GPA membership statements can be managed and delivered, it is proposed to add a new rule at 3.2ee, which will provide for the Executive Committee to be able to put forward draft statements for consideration by the wider membership as GPA joint statements. This amendment will give effect to the mechanisms set out in the Joint Statement Resolution.

### 3. Proposed amendments

It is proposed that the Rules and Procedure of the Assembly be amended as set out below.

The amendments are shown below in bold italicised text:

#### 3.2 Functions of the Executive Committee

aa. To provide leadership to the Assembly in attaining its strategic goals, ***including by adopting Executive Committee Statements on time critical emerging global issues, or appointing Rapporteurs to consider an emerging global issue***

e. To draft press releases, statements and any other media resources, ***including to draft Executive Committee Statements on time critical emerging global issues.***

***ee. To propose statements to be made by the Assembly outside of the Closed Session where the Executive Committee judges that timely action by the membership is needed in response to an emerging global issue and/or to appoint a Rapporteur to explore the issue and report back to the membership;***

***i. The preparation of a draft GPA statement shall be communicated to all members, together with a call for a rapporteur(s) where applicable. A draft shall be circulated for comments, with a deadline of no less than 7 days for responses (consultation period). The rapporteur(s) and/or Executive Committee shall make best efforts to integrate the comments received and reach a consensus draft on this basis. Where significant changes have been proposed, the rapporteur(s) and/or Executive Committee may circulate a revised version with a further period of 7 days for comment. Otherwise, a final draft will be circulated to all members at the end of the consultation period.***

***ii. Once a draft is finalised, GPA members will be given a 14 day period to abstain or opt out from the GPA statement. This will be noted in a footnote to the GPA statement with an explanation from the abstaining/opting out member if required by that member. If more than 10% of members opt out or abstain, the statement will not be issued as a GPA branded statement. Interested members may choose to proceed to make a joint statement on their own initiative, but this shall not bear GPA marking.***

***iii. In line with section 2.3 on Closed Session decision-making, national and subnational authorities from the same country should make a single response.***

#### Explanatory Note

The Global Privacy Assembly's Strategic Direction adopted in Tirana 2019 clearly articulates the GPA's strategic priorities to work towards a global regulatory environment with clear and consistently high standards of data protection and to maximise the Conference's voice and influence. The new policy strategy signalled that the GPA is becoming an organisation that is active on Privacy and Data Protection issues year-round. Building on this, there is a need for the GPA to be able to respond to

Emerging Global Issues as they develop, rather than only at the Closed Session conference each year. It is crucial that the GPA has a procedure to speak to the outside world and influence the direction of policy on privacy and data protection issues as they arise, and in particular to draw attention to the privacy angles of broader societal issues such as the current pandemic.

One way of achieving an ongoing in-year presence for the GPA is by way of Joint Statements on Emerging Global Issues. These Joint Statements on Emerging Global Issues will raise the profile of the GPA as the global network of data protection and privacy enforcement authorities and demonstrate to the world that the GPA is now a connected network that has achieved a level of coherence to be able to speak authoritatively in unison. It will also present members with an opportunity to demonstrate, within their own jurisdiction, the benefit to their citizens of members dedicating resources to international work with GPA colleagues.

It is proposed that statements should be limited to Emerging Issues with potentially global impact which are likely to be of shared concern to all GPA members.

The COVID-19 pandemic has highlighted the advantages of the GPA being able to make its collective voice heard throughout the year to provide timely engagement with issues as they arise. While the Executive Committee has made statements on behalf of the Executive Committee members rather than GPA members as a whole, there is additional value that can be derived through ensuring that all GPA members are able to be included in and benefit from the shared resource and influence of the collective GPA community. Such initiatives will allow the GPA to provide support to the entire membership by developing statements that each member can reference in furthering their own domestic activities.

A clear and transparent process will ensure that members are informed about the drafting of a statement and are given the opportunity to contribute and comment, thus ensuring an optimal reflection of the membership's views regarding the emerging issue to be addressed.

The Executive Committee tasked the Strategic Direction Sub Committee with exploring possible procedures that would allow for the GPA to have a collective voice on issues as they emerge, taking account of comments from members on the joint statements proposal put forward last year. A new proposal, endorsed by the Executive Committee, was the subject of a member consultation in June 2020. The proposal set out a procedure which contemplated different situations in which statements might be made on emerging global issues. This procedure reflects member feedback from that consultation process.

This resolution will enable Conference members to strengthen their voice and influence on matters which have not already been specifically foreseen and included in the Conference Strategic Plan, policy strategy and in Working Group mandates.

This procedure allows the GPA to communicate early concern to organisations on novel processing contexts, thus safeguarding individuals before their data is processed in a new and concerning manner.