



International Oil Pollution
Compensation Funds

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1992 Fund Assembly	92A24	●
1992 Fund Executive Committee	92EC73	
Supplementary Fund Assembly	SA16	●

THE EUROPEAN UNION GENERAL DATA PROTECTION REGULATION

RECENT DEVELOPMENTS

Note by the Secretariat

Summary:	This document provides recent developments on the application of the General Data Protection Regulation (GDPR) of the European Union and Directive 2016/680 (Directive) to the IOPC Funds and on the Secretariat's engagement towards the implementation of the GDPR and Directive.
Action to be taken:	<u>1992 Fund Assembly and Supplementary Fund Assembly</u> Information to be noted.

1 Background information

- 1.1 The European Union Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016, the General Data Protection Regulation (GDPR) and the accompanying Directive 2016/680 (Directive), have been applied within the European Union (EU) as of 25 May 2018. The GDPR and the Directive seek to protect fundamental rights and freedoms of natural persons relating to the collection and processing of their personal data, and to allow for the free movement of personal data within the EU.
- 1.2 Since the IOPC Funds are international intergovernmental organisations, the Director requested the European Commission for clarification on the application of the GDPR and the Directive to the Funds. In February 2019, the Director received a response stating that the application depends on the privileges and immunities applicable under the Headquarters Agreement.

2 Recent developments in the application of the GDPR and the Directive

- 2.1 Following the reply from the European Commission, the Secretariat has sought a clarification from the UK Government on the application of the GDPR and the Directive in light of the existing Headquarters Agreement.
- 2.2 On 1 August 2019, the United Kingdom Government sent the Secretariat its reply as follows:

Article 3(1) and Article 4(7) of Regulation 2016/679 defines who is subject to GDPR. International organisations, including the IOPC Funds, as a legal person that processes personal data in the performance of its mission, are subject to the Regulation as a 'controller'. The UK applies this Regulation directly under domestic legislation to all diplomatic missions and international organisations. But it is for each organisation to seek its own legal advice on application and obligations.

- 2.3 The reply from the UK Government indicates that the GDPR applies to the IOPC Funds and that the IOPC Funds can have its own position as to its application. The Secretariat will study this aspect further through correspondence with the UK Government and consultation with the Funds' lawyer and will report developments at future sessions of the governing bodies.

3 Implementation of the GDPR and the Directive

- 3.1 The Director is of the view that whether the GDPR would apply to the IOPC Funds or not, it would be good for the IOPC Funds to apply the same principles as the GDPR and to ensure that policies and procedures are in place. The IOPC Funds by the very nature of its work, hold personal data (e.g. claimants' data) and have always ensured that personal data are managed sensitively and are protected.
- 3.2 Although the GDPR and the Directive only apply to the personal data of natural persons in the EU, the IOPC Funds should provide the same data protection universally in view of its global nature.
- 3.3 The Secretariat will engage with experts in this field and will ensure the principles guiding the GDPR are considered when reviewing its data management processes and procedures within the Secretariat. The Director will report on developments at future sessions of the governing bodies.

4 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and Supplementary Fund Assembly are invited to take note of the information contained in this document.
