

From: ... @privacy.org.nz>
Sent: lundi 3 mai 2021 06:47
To: T-CY <T-CY@coe.int>
Cc: Data Protection <Data.Protection@coe.int>
Subject: RE: draft second additional Protocol to the Cybercrime Convention
Importance: High

Dear Secretariat of the Cybercrime Committee

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Our comments are based on our privacy legislation and our Bill of Rights Act.

- Article 6(2) and 6(3) Request for domain name registration information: The criteria for a request for information should be limited and should meet the test of proportionality.

We would want the criteria set out in article 6(3) to include the legislative authority to request the information. As well as an assurance that the information will be deleted without undue delay once the purpose is fulfilled.

- Article 7(3) Disclosure of subscriber information: the order should include the legal basis for a disclosure, for example the legislative authority the party is relying on to make the disclosure.
- Article 7(4) Disclosure of subscriber information: Supplemental information should specify the safeguards that will be put in place once the data is received.
- Article 14(2) Purpose and use: Processing should be proportionate and a legitimate purpose should be pursued. This article should explicitly state that processing will be done for a legitimate purpose only and any processing done will be proportionate.
- Article 14(3) Quality and integrity: This article should include that each party shall take reasonable steps to ensure personal information is relevant and not misleading.
- Article 14(5) Retention periods: It should be specified that personal information shall not be retained for longer than required. In other words personal information should be retained until there is a lawful purpose to retain such personal information.
- Article 14(7)(b) Data security and security incidents: We would want the notification of a data breach to include that the notification of a data breach shall be made without undue delay.
- Article 14(8) Maintaining records: The article should include that each party shall be willing to share records with other members to demonstrate accountability and transparency.
- Article 14(10)(a) Onward transfer to another State or international organisation: The article should include that personal information can be transferred with the authorisation of the transferring authority and when the other state or international organisation has comparable privacy safeguards.

- Article 14(12)(b) Access and rectification: We do not accept that there should be an expense for obtaining access. The relevant text should be deleted and replaced to state that access should be free of charge. We would want the same to be applied for rectification requests as well. No charges should be made for rectification requests.

We would be extremely grateful if you would consider our comments.

Yours sincerely

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