

# Rule of law embedded in the scope and system of the Second additional Protocol

Gareth Sansom

Department of Justice Canada

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## Article 2 (1) – Scope of application

“Except as otherwise specified herein, the measures described in this Protocol shall be applied:

- a. as between Parties to the Convention that are Parties to this Protocol, **to specific criminal investigations or proceedings concerning criminal offences related to computer systems and data, and to the collection of evidence in electronic form of a criminal offence**; and
- b. as between Parties to the First Protocol that are Parties to this Protocol, to specific criminal investigations or proceedings concerning criminal offences established pursuant to the First Protocol.”

Constraining the Protocol to **specific** criminal investigations, entails practices involving “bulk” collection of data is out of scope; it also entails that national security or foreign intelligence operations are out of scope

## Articles specifying types of data to be disclosed

Article 6 – Request for **domain name registration information**

Article 7 – Disclosure of **subscriber information**

Article 8 – Giving effect to orders to another Party for expedited production of **subscriber information** and **traffic data**

Article 9 – Expedited disclosure of **stored computer data** in an emergency

Distinguishing among types of data is crucial given that different types of data may constitute different degrees of intrusiveness, that is, engage different degrees reasonable expectations of privacy

Articles specifying information to be included in requests/orders to permit application of domestic safeguards.

**Standardize specified sets of information that are necessary to accompany each request or order – what data should be provided by the requesting authority and to whom should certain sets of data be shared**

**Article 6 – Request for domain name registration information**

**Article 7 – Disclosure of subscriber information**

**Article 8 – Giving effect to orders to another Party for expedited production of subscriber information and traffic data**

## **Reservations and declarations to permit domestic safeguards and limit information to be provided.**

### **Article 7 – Disclosure of subscriber information**

**A Party may reserve against adopting this mechanism and instead will use only Article 8**

### **Article 8 – Giving effect to orders to another Party for expedited production of subscriber information and traffic data**

**A Party may reserve against disclosing traffic data through this mechanism**

### **Article 17 – Federal clause**

The Reservation in Art.17(1) made by a Party which has relevant unique aspects as a federal state has a corresponding declaration in Art. 17(2) by requested Parties **who may constrain disclosure of data**