

Cybercrime Convention Committee (T-CY)

Preparation of a 2nd Additional Protocol to the Budapest Convention on Cybercrime

Consultation with data protection experts

Monday, 26 November 2018, 13h00 – 18h00

Council of Europe (Palais, Room 2), Strasbourg, France

1 Background

In September 2017, the Parties to the Budapest Convention on Cybercrime commenced the preparation of a 2nd additional Protocol to the Convention on enhanced international cooperation and access to evidence in the cloud. For this purpose, the Cybercrime Convention Committee (T-CY), representing the Parties, is extending regular plenary meetings for negotiation of the Protocol and established a "Protocol Drafting Group" to work on text in between plenary sessions.

The T-CY wishes to consult civil society, data protection organisations and industry during the drafting process in order to seek their views and benefit from their experience. Consultations with these stakeholders were held in July 2018 during the Octopus Conference in Strasbourg.

Following up on this, a meeting with data protection experts is now proposed to be held on Monday, 26 November, from 13h00 to 18h00.

2 Objective

The objective of the meeting is to establish the specific data protection requirements to be met for direct cooperation between a competent criminal justice authority of one Party with a service provider in another Party, including:

- ▶ An order or similar request for subscriber information (and possibly other data) from a competent authority in one Party to a service provider in another Party, and the direct transmission of such information (or data) by a service provider to the requesting Party in return.
- ▶ A request for the expedited preservation of stored computer data from a competent authority in one Party directly to a service provider in another Party and the actual preservation [without disclosure] of such data by the service provider.

This consultation is to permit identification of concrete solutions to questions already raised during the consultations in July 2018.¹

3 Participants

The consultation will take the form of a working group meeting and a limited number of:

- ▶ Data protection experts from Parties and bodies such as the [Consultative Committee of Convention 108](#), the [European Data Protection Board](#) or the [European Data Protection Supervisor](#);
- ▶ Members of the Protocol Drafting Group working on provisions related to direct cooperation with providers, international production orders, extending searches and safeguards.

4 Agenda

- 13h00 Opening and introduction to the issue
- 13h30 Data protection requirements for direct requests for subscriber information and transmission of responses, including application in practice
- 15h30 Data protection requirements with regard to direct requests for data preservation, including application in practice
- 16h45 Exchange of views on subscriber information in relation to static versus dynamic IP addresses²
- 17h45 Conclusions

5 Contact

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¹ See Section 3.3 of the [Discussion Guide](#) and [contributions](#) received.

² Based on a T-CY discussion paper.