Working Party on Information Security and Privacy

QUESTIONNAIRE ON THE IMPLEMENTATION OF THE OECD RECOMMENDATION ON PRIVACY LAW ENFORCEMENT CO-OPERATION

This questionnaire has been prepared with the assistance of the WPISP privacy volunteer group. Responses to the questionnaire will form the basis of an implementation report on the OECD Recommendation on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy, due to be submitted to the OECD Council in June 2010.

WPISP delegates are invited to provide responses to the questions to the Secretariat by 8 January 2010. Delegates are encouraged to consult with their privacy enforcement authorities in preparing their responses.

Michael Donohue, tel: +33 1 45 24 14 79; e-mail: michael.donohue@oecd.org

JT03274418

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format
QUESTIONNAIRE ON IMPLEMENTATION OF THE OECD RECOMMENDATION ON PRIVACY LAW ENFORCEMENT CO-OPERATION

Introduction

1. Early in 2006, the OECD undertook an examination of challenges posed by cross-border aspects of privacy law enforcement, beginning with a survey of OECD governments. Building on the results of a Questionnaire, the OECD released a Report on the Cross-border Enforcement of Privacy Laws in October 2006. The report examines the law enforcement authorities and mechanisms that have been established with a particular focus on how they operate in the cross-border context. It describes existing arrangements to address the challenges and identifies a number of issues that require further consideration.

2. On 12 June 2007, the OECD Council adopted a new Recommendation setting forth a framework for co-operation in the enforcement of privacy laws. The framework reflects a commitment by governments to improve their domestic frameworks for privacy law enforcement to better enable their authorities to co-operate with foreign authorities, as well as to provide mutual assistance to one another in the enforcement of privacy laws.

3. The Recommendation calls for the ICCP Committee to exchange information on progress and experiences in implementing the principles, with a view to reporting back to Council with three years -- i.e., June 2010.

4. Initiatives at the international level to implement the Recommendation are well underway. The OECD Secretariat is maintaining a list of national contact points to co-ordinate requests for assistance. The OECD created a form to assist in the designation of those contact points, and to date, 19 countries have designated their contact point. The OECD also developed a form for use by an authority in requesting assistance to help ensure that key items of information are included in the request.

5. Other examples of implementation activity include fostering dialogue among key stakeholders. Section IV(C) of the Recommendation calls for a consultation between privacy authorities and privacy professionals on how best to resolve privacy complaints. On 27 May 2008, the OECD held a Roundtable bringing together some 50 participants, composed of privacy enforcement authorities and privacy professionals from many parts of the world. Canadian Privacy Commissioner Jennifer Stoddart chaired the day-long event. Available documentation from the event includes: the Agenda, presentations, and a Summary of the Discussion.

6. At its meeting on 17-18 November 2008, the WPISP conducted a tour de table discussion of implementation activities and agreed to a proposal for preparing its implementation report [DSTI/ICCP/REG(2009)8]. The plan calls for the circulation of a written questionnaire to solicit information for the report, and that is the purpose of this questionnaire. The questionnaire was prepared with the assistance of the WPISP privacy volunteer group and a draft was discussed at the WPISP meeting on 12-13 October.
ACTION REQUESTED

7. WPISP delegates are invited to provide responses to the questionnaire to the Secretariat (michael.donohue@oecd.org) by 8 January. Delegates are encouraged to consult with their Privacy Enforcement Authorities in the preparation of their responses.
QUESTIONS

Domestic measures to enable co-operation

1. The Recommendation calls for member countries to *review their domestic frameworks* as needed, and to adjust such frameworks where appropriate, to ensure their effectiveness for cross-border co-operation in the enforcement of privacy laws. What are the results of any reviews that may have been conducted? [Section III, para 8]

2. Have there been any developments related to considering the improvement of *remedies or redress* available to individuals who suffer harm from actions that violate privacy laws wherever they may be located? [Section III, para 9]

3. Have there been any developments related to the use in your country of *evidence, judgments or enforceable orders* obtained by a privacy authority in another country? [Section III, para 10]

4. What action, if any, have you taken to improve the authority of your privacy enforcement authorities to *deter and sanction* privacy law violations? [Section III, para 11(a)]

5. What action, if any, has been taken to improve the authority of your privacy enforcement authorities to conduct *effective investigations* of possible privacy law violations? [Section III, para 11(b)]

6. What action, if any, has been taken to improve the authority of your privacy enforcement authorities to permit *corrective action* for privacy law violations? [Section III, para 11(c)]

7. What action, if any, has been taken to improve the mechanisms allowing your privacy enforcement authorities to *share relevant information* with foreign authorities? [Section III, para 12(a)]

8. What action, if any, has been taken to better enable your privacy enforcement authorities to *provide assistance* to foreign authorities? [Section III, para 12(b)]

International co-operation

9. How often has your assistance been sought from a privacy enforcement authority in another country? Have you *provided assistance* to a privacy enforcement authority in another country? Have you found it necessary to decline or limit your responses to any requests for assistance? [Section IV(A)]

10. How often have you *referred complaints or provided notice* of possible violations to other privacy enforcement authorities? [Section IV, para 17]

11. Have any *disagreements* related to co-operation arisen, and if so how were they resolved? [Section IV, para 18]

12. Have you designated a national *point of contact*? [Section IV, para 19]

13. What steps, if any, have been taken to improve the sharing of *information on privacy outcomes*? [Section IV, para 20]
14. Do you have any suggestions for fostering the establishment of an informal network of privacy enforcement authorities? [Section IV, para 21]

15. Please describe any notable experiences or challenges encountered in co-operating with other authorities and stakeholders (e.g. criminal law enforcement authorities, privacy officers, private sector oversight groups, civil society, or businesses.) [Section IV(C)]

Quantitative information

16. Please provide any quantitative information you have on the volume and types of privacy complaints with a cross-border dimension received in your country. Likewise, please share any available data that can help put that complaint information in context.

Other issues

17. Have you experienced any implementation challenges not described above?

18. Are there other challenges related to cross-border co-operation that are not adequately addressed in the Recommendation?