

Principles on Transborder Access to Stored Computer Data

Principles on Accessing Data Stored in a Foreign State

The G8 agree that the following principles should apply when law enforcement agents employed by law enforcement agencies are investigating criminal matters and require transborder access to, copying of, or search and seizure of electronic data (including historical traffic data, but not including interceptions), and such principles should be implemented through treaties, and through national laws and policies:

Preservation of Data Stored in a Computer System

Each State shall ensure its ability to secure rapid preservation of data that is stored in a computer system, in particular data held by third parties such as service providers, and that is subject to short retention practices or is otherwise particularly vulnerable to loss or modification, for the purpose of seeking its access, search, copying, seizure or disclosure, and ensure that preservation is possible even if necessary only to assist another State.

A State may request another State to secure rapid preservation of data stored in a computer system located in that other State.

Upon receiving a request from another State, the requested State shall take all appropriate means, in accordance with its national law, to preserve such data expeditiously. Such preservation shall be for a reasonable time to permit the making of a formal request for the access, search, copying, seizure or disclosure of such data.

Expedited Mutual Legal Assistance

Upon receiving a formal request for access, search, copying, seizure or disclosure of data, including data that has been preserved, the requested State shall, in accordance with its national law, execute the request as expeditiously as possible, by:

Responding pursuant to traditional legal assistance procedures, or

Ratifying or endorsing any judicial or other legal authorization that was granted in the requesting State and, pursuant to traditional legal assistance procedures, disclosing any data seized to the requesting State; or

Using any other method of assistance permitted by the law of the requested State,

Each State shall, in appropriate circumstances, accept and respond to legal assistance requests made under these Principles by expedited but reliable means of communications, including voice, fax or e-mail, with written confirmation to follow where required. **cti**

Transborder Access to Stored Data Not Requiring Legal Assistance

Notwithstanding anything in these Principles, a State need not obtain authorization from another State when it is acting in accordance with its national law for the purpose of:

accessing publicly available (open source) data, regardless of where the data is geographically located

accessing, searching, copying, or seizing data stored in a computer system located in another State, if acting in accordance with the lawful and voluntary consent of a person who has the lawful authority to disclose to it that data. The searching State should consider notifying the searched State, if such notification is permitted by national law and the data reveals a violation of criminal law or otherwise appears to be of interest to the searched State.

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