

**Privacy International's Oral Statement to the UN Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communication Technologies for Criminal Purposes**

Sixth session of the Ad Hoc Committee (21 August - 1 September 2023, New York)

As delivered by Ioannis Kouvakas on 29 August 2023  
[*check against delivery*]

Thank you, Vice-Chair. Building on our joint submission with the Electronic Frontier Foundation, Privacy International would like to take this opportunity to make some brief comments with regard to Article 36 under Group 10.

Privacy International welcomes the revised wording of Article 36 as in the final draft, noting particularly the effort to ensure that any data transfer is prohibited unless it is subject to both national and international data protection law safeguards. We are delighted to see the commitment of certain delegations to this end.

We wish to highlight that it is vital that further amendments are introduced to ensure that there are explicit references to international human rights law and standards.

The reason those explicit references are in our view needed in the text of Article 36 is twofold: First, not all countries at the moment have a comprehensive data protection framework. The reference to data protection legislation in Article 36 could thus render the provision meaningless unless there are specific, universally agreed standards each country should abide by. Second, the introduction of explicit safeguards would also help countries with more or less extensive data protection regimes in place to ensure that any transfers of personal data are taking place lawfully and NOT in potential violation of their own national frameworks or international obligations.

Focusing on what those principles should be and in support of the amendments already proposed by the European Union and its Member States, Privacy International wishes to highlight the following human rights based data protection standards as a minimum: the principles of lawful and fair processing, transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality, and accountability.

These are all principles that derive from existing international human rights law. They have been recognised in the Human Rights Committee General Comment on Article 17 of the ICCPR and the report of the UN High Commissioner for Human Rights on the right to privacy in the digital age. They also form part of the data protection legislation of several countries and regions across the world and can be further found in other international instruments such as the Council of Europe Convention 108+.

Thank you.