



# Recommendation of the Council on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy

**OECD Legal  
Instruments**



This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at <http://legalinstruments.oecd.org>.

**Please cite this document as:**

OECD, *Recommendation of the Council on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy*, OECD/LEGAL/0352

Series: OECD Legal Instruments

**Photo credit:** © vs148/shutterstock.com

© OECD 2025

---

This document is provided free of charge. It may be reproduced and distributed free of charge without requiring any further permissions, as long as it is not altered in any way. It may not be sold.

This document is available in the two OECD official languages (English and French). It may be translated into other languages, as long as the translation is labelled "unofficial translation" and includes the following disclaimer: *"This translation has been prepared by [NAME OF TRANSLATION AUTHOR] for informational purpose only and its accuracy cannot be guaranteed by the OECD. The only official versions are the English and French texts available on the OECD website <http://legalinstruments.oecd.org>"*

---

## Background Information

The Recommendation on Cross-Border Co-operation in the Enforcement of Laws Protecting Privacy (“the Recommendation”) was adopted by the OECD Council on 12 June 2007 on the proposal of the Committee for Information, Computer and Communications Policy (ICCP) (today the Digital Policy Committee, DPC). The Recommendation aims to foster international co-operation among Privacy Enforcement Authorities (PEAs), recognising that the cross-border enforcement of privacy laws is central to effectively protecting privacy and promoting the free flow of data with trust.

### ***OECD work on cross-border privacy enforcement co-operation***

The importance of cross-border enforcement co-operation has been central to the OECD’s work on privacy for many decades, and has been enshrined in the OECD Privacy Guidelines [[OECD/LEGAL/0188](#)] since their adoption by the OECD Council in 1980. In 1998, the need for effective privacy enforcement was highlighted by Ministers in their [Ministerial Declaration on the Protection of Privacy on Global Networks](#), and again emphasised in 2003 in an [OECD report](#) calling for Member countries to establish procedures to improve bilateral and multilateral mechanisms for cross-border co-operation by privacy authorities.

In 2006, the OECD released a [Report on the Cross-border Enforcement of Privacy Laws](#). This Report highlighted a need for a more global and systematic approach to cross-border privacy law enforcement co-operation.

A year later, the OECD Council adopted the Recommendation, which was developed by the ICCP through its Working Party on Information Security and Privacy (WPISP). The work to develop the Recommendation was conducted in close co-operation with PEAs, and led by the then Privacy Commissioner of Canada.

### ***Scope of the Recommendation***

The Recommendation lists steps that Adherents should take to:

- Improve their domestic privacy law enforcement frameworks to better enable their PEAs to co-operate with foreign authorities;
- Develop effective international mechanisms to facilitate cross-border privacy law enforcement co-operation;
- Provide mutual assistance to one another in the enforcement of laws protecting privacy, including through notification, complaint referral, investigative assistance and information sharing (subject to appropriate safeguards);
- Engage with relevant stakeholders in discussion and activities aimed at furthering co-operation in the enforcement of laws protecting privacy; and
- Establish an informal network of PEAs and other appropriate stakeholders.

### ***2023 Review of continued relevance of the Recommendation***

In 2021, the OECD Working Party on Data Governance and Privacy (WPDGP) started a review of the continued relevance of the Recommendation. Analytical work included a questionnaire shared with Adherents, as well as an Expert Roundtable.

In 2023, DPC approved a report on the review of the Recommendation (“2023 Report”) [[DSTI/CDEP/DGP\(2022\)2/REV2](#)], which identifies a number of emerging challenges in light of increased cross-border data flows and highlights the growing need for cross-regulatory and interagency co-operation. The 2023 Report concludes that while the principles underlying the Recommendation remains relevant a number of gaps, challenges and opportunities exist that warrant further consideration. As a result, the WPDGP is currently pursuing work to either elaborate guidance to further support the Recommendation’s implementation, or to revise it.

For further information please consult: <https://www.oecd.org/digital/privacy/>.  
Contact information: [dataandprivacy@oecd.org](mailto:dataandprivacy@oecd.org).

## Implementation

### **2011 Report to Council**

In 2011, DPC approved a [report](#) on the dissemination, implementation, and continued relevance of the Recommendation which was transmitted to the OECD Council to be noted and declassified (“2011 Report”).

The [2011 Report](#) found that the Recommendation was stimulating improvements in Adherents to co-operate across borders in the enforcement of privacy laws. It highlighted one key implementation initiative, namely the creation in March 2010 of a new network for privacy enforcement co-operation – the Global Privacy Enforcement Network (GPEN).

At the same time, the 2011 Report also noted some challenges, such as a need for further efforts to ensure that PEAs have sufficient powers and resources, and legal limitations on sharing information with foreign authorities. The 2013 revision to the OECD Privacy Guidelines sought to address a number of these challenges.

The published version of the 2011 Report is available at this [link](#).

### **Insights from the 2023 review on the continued relevance of the Recommendation**

The 2023 Report concludes that Adherents have taken significant steps towards the implementation of the Recommendation, and it provides relevant examples of best practices. It highlights that a majority of PEAs have the necessary powers and authority to effectively engage in cross-border enforcement co-operation at the domestic level, and that several actions have been taken to implement the Recommendation’s provisions on international co-operation. PEAs increasingly co-operate with foreign PEAs, such as through mutual consultation, information sharing and joint investigation. They also frequently engage in formal or informal networks such as GPEN or the Global Privacy Assembly’s International Enforcement Cooperation Working Group.

Nonetheless, the 2023 Report found that PEAs continue to face practical challenges in exercising their existing powers, notably when a violation has extraterritorial elements. In particular, the possibility of having decisions enforced in foreign jurisdictions arose a significant challenge. In addition, cross-sectoral co-operation on the enforcement of privacy laws emerged as a key need in today’s digital economy where personal data can concern the work of regulators from a wide variety of sectors at once. This need is not adequately reflected in the current text of the Recommendation and the 2023 Report’s findings suggest a potential role for the OECD in addressing this challenge.

The published version of the 2023 Report is available at this [link](#).

## THE COUNCIL,

**HAVING REGARD** to Articles 1, 3, and 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

**HAVING REGARD** to the *Recommendation of the Council concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data* [C(80)58/FINAL], which recognises that Member countries have a common interest in protecting individuals' privacy without unduly impeding transborder data flows, and states that Member countries should establish procedures to facilitate "mutual assistance in the procedural and investigative matters involved";

**HAVING REGARD** to the *Declaration on the Protection of Privacy on Global Networks* [C(98)177, Annex 1], which recognises that different effective approaches to privacy protection can work together to achieve effective privacy protection on global networks and states that Member countries will take steps to "ensure that effective enforcement mechanisms" are available both to address non-compliance with privacy principles and to ensure access to redress;

**HAVING REGARD** to the Recommendation of the Council concerning Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders [C(2003)116] and the Recommendation of the Council on Cross-border Co-operation in the Enforcement of Laws against Spam [C(2006)57], which set forth principles for international law enforcement co-operation in combating cross-border fraud and deception and illegal spam, respectively, and which illustrate how cross-border co-operation among Member countries can be improved;

**RECOGNISING** the benefits in terms of business efficiency and user convenience that the increase in transborder flows of data has brought to organisations and individuals;

**RECOGNISING** that the increase in these flows, which include personal data, has also raised new challenges and concerns with respect to the protection of privacy;

**RECOGNISING** that, while there are differences in their laws and enforcement mechanisms, Member countries share an interest in fostering closer international co-operation among their privacy law enforcement authorities as a means of better safeguarding personal data and minimising disruptions to transborder data flows;

**RECOGNISING** that, although there are regional instruments and other arrangements under which such co-operation will continue to take place, a more global and comprehensive approach to this co-operation is desirable;

### On the proposal of the Committee for Information, Computer and Communications Policy:

#### RECOMMENDS:

That Member countries co-operate across borders in the enforcement of laws protecting privacy, taking appropriate steps to:

- Improve their domestic frameworks for privacy law enforcement to better enable their authorities to co-operate with foreign authorities.
- Develop effective international mechanisms to facilitate cross-border privacy law enforcement co-operation.
- Provide mutual assistance to one another in the enforcement of laws protecting privacy, including through notification, complaint referral, investigative assistance and information sharing, subject to appropriate safeguards.
- Engage relevant stakeholders in discussion and activities aimed at furthering co-operation in the enforcement of laws protecting privacy.

That Member countries implement this Recommendation, as set forth in greater detail in the Annex, of which it forms an integral part.

**INVITES** non-Member economies to take account of the Recommendation and collaborate with Member countries in its implementation.

**INSTRUCTS** the Committee for Information, Computer and Communications Policy to exchange information on progress and experiences with respect to the implementation of this Recommendation, review that information, and report to the Council within three years of its adoption and thereafter as appropriate.

## ANNEX

### I. Definitions

1. For the purposes of this Recommendation:

- a) "Laws Protecting Privacy" means national laws or regulations, the enforcement of which has the effect of protecting personal data consistent with the *OECD Privacy Guidelines*.
- b) "Privacy Enforcement Authority" means any public body, as determined by each Member country, that is responsible for enforcing Laws Protecting Privacy, and that has powers to conduct investigations or pursue enforcement proceedings.

### II. Objectives and Scope

2. This Recommendation is intended to foster international co-operation among Privacy Enforcement Authorities to address the challenges of protecting the personal information of individuals wherever the information or individuals may be located. It reflects a commitment by Member countries to improve their enforcement systems and laws where needed to increase their effectiveness in protecting privacy.

3. The main focus of this Recommendation is the authority and enforcement activity of Privacy Enforcement Authorities. However, it is recognised that other entities, such as criminal law enforcement authorities, privacy officers in public and private organisations and private sector oversight groups, also play an important role in the effective protection of privacy across borders, and appropriate co-operation with these entities is encouraged.

4. Given that cross-border co-operation can be complex and resource-intensive, this Recommendation is focused on co-operation with respect to those violations of Laws Protecting Privacy that are most serious in nature. Important factors to consider include the nature of the violation, the magnitude of the harms or risks as well as the number of individuals affected.

5. Although this Recommendation is primarily aimed at facilitating co-operation in the enforcement of Laws Protecting Privacy governing the private sector, Member countries may also wish to co-operate on matters involving the processing of personal data in the public sector.

6. This Recommendation is not intended to interfere with governmental activities relating to national sovereignty, national security, and public policy ("ordre public").

### III. Domestic Measures to Enable Co-operation

7. In order to improve cross-border co-operation in the enforcement of Laws Protecting Privacy, Member countries should work to develop and maintain effective domestic measures that enable Privacy Enforcement Authorities to co-operate effectively both with foreign and other domestic Privacy Enforcement Authorities.

8. Member countries should review as needed, and where appropriate adjust, their domestic frameworks to ensure their effectiveness for cross-border co-operation in the enforcement of Laws Protecting Privacy.

9. Member countries should consider ways to improve remedies, including redress where appropriate, available to individuals who suffer harm from actions that violate Laws Protecting Privacy wherever they may be located.

10. Member countries should consider how, in cases of mutual concern, their own Privacy Enforcement Authorities might use evidence, judgments, and enforceable orders obtained by a Privacy Enforcement Authority in another country to improve their ability to address the same or related conduct in their own countries.



### **A. *Providing Effective Powers and Authority***

11. Member countries should take steps to ensure that Privacy Enforcement Authorities have the necessary authority to prevent and act in a timely manner against violations of Laws Protecting Privacy that are committed from their territory or cause effects in their territory. In particular, such authority should include effective measures to:

- a) Deter and sanction violations of Laws Protecting Privacy;
- b) Permit effective investigations, including the ability to obtain access to relevant information, relating to possible violations of Laws Protecting Privacy;
- c) Permit corrective action to be taken against data controllers engaged in violations of Laws Protecting Privacy.

### **B. *Improving the Ability to Co-operate***

12. Member countries should take steps to improve the ability of their Privacy Enforcement Authorities to co-operate, upon request and subject to appropriate safeguards, with foreign Privacy Enforcement Authorities, including by:

- a) Providing their Privacy Enforcement Authorities with mechanisms to share relevant information with foreign authorities relating to possible violations of Laws Protecting Privacy;
- b) Enabling their Privacy Enforcement Authorities to provide assistance to foreign authorities relating to possible violations of their Laws Protecting Privacy, in particular with regard to obtaining information from persons; obtaining documents or records; or locating or identifying organisations or persons involved or things.

## **IV. *International Co-operation***

13. Member countries and their Privacy Enforcement Authorities should co-operate with each other, consistent with the provisions of this Recommendation and national law, to address cross-border aspects arising out of the enforcement of Laws Protecting Privacy. Such co-operation may be facilitated by appropriate bilateral or multilateral enforcement arrangements.

### **A. *Mutual Assistance***

14. Privacy Enforcement Authorities requesting assistance from Privacy Enforcement Authorities in other Member countries in procedural, investigative and other matters involved in the enforcement of Laws Protecting Privacy across borders should take the following into account:

- a) Requests for assistance should include sufficient information for the requested Privacy Enforcement Authority to take action. Such information may include a description of the facts underlying the request and the type of assistance sought, as well as an indication of any special precautions that should be taken in the course of fulfilling the request.
- b) Requests for assistance should specify the purpose for which the information requested will be used.
- c) Prior to requesting assistance, a Privacy Enforcement Authority should perform a preliminary inquiry to ensure that the request is consistent with the scope of this Recommendation and does not impose an excessive burden on the requested Privacy Enforcement Authority.

15. The requested Privacy Enforcement Authority may exercise its discretion to decline the request for assistance, or limit or condition its co-operation, in particular where it is outside the scope of this Recommendation, or more generally where it would be inconsistent with domestic laws, or important interests or priorities. The reasons for declining or limiting assistance should be communicated to the requesting authority.

16. Privacy Enforcement Authorities requesting and receiving assistance on enforcement matters should communicate with each other about matters that may assist ongoing investigations.



17. Privacy Enforcement Authorities should, as appropriate, refer complaints or provide notice of possible violations of the Laws Protecting Privacy of other Member countries to the relevant Privacy Enforcement Authority.

18. In providing mutual assistance, Privacy Enforcement Authorities should:

- a) Refrain from using non-public information obtained from another Privacy Enforcement Authority for purposes other than those specified in the request for assistance;
- b) Take appropriate steps to maintain the confidentiality of non-public information exchanged and respect any safeguards requested by the Privacy Enforcement Authority that provided the information;
- c) Co-ordinate their investigations and enforcement activity with that of Privacy Enforcement Authorities in other Member countries to promote more effective enforcement and avoid interference with ongoing investigations;
- d) Use their best efforts to resolve any disagreements related to co-operation that may arise.

**B. *Engaging in Collective Initiatives to Support Mutual Assistance***

19. Member countries should designate a national contact point for co-operation and mutual assistance under this Recommendation and provide this information to the OECD Secretary-General. The designation of the contact point is intended to complement rather than replace other channels for co-operation. Updated information regarding Laws Protecting Privacy should also be provided to the OECD Secretary-General, who will maintain a record of information about the laws and contact points for the benefit of all Member countries.

20. Privacy Enforcement Authorities should share information on enforcement outcomes to improve their collective understanding of how privacy law enforcement is conducted.

21. Member countries should foster the establishment of an informal network of Privacy Enforcement Authorities and other appropriate stakeholders to discuss the practical aspects of privacy law enforcement co-operation, share best practices in addressing cross-border challenges, work to develop shared enforcement priorities, and support joint enforcement initiatives and awareness raising campaigns.

**C. *Co-operating with other Authorities and Stakeholders***

22. Member countries should encourage Privacy Enforcement Authorities to consult with:

- a) Criminal law enforcement authorities to identify how best to co-operate in relation to privacy matters of a criminal nature for the purpose of protecting privacy across borders most effectively;
- b) Privacy officers in public and private organisations and private sector oversight groups on how they could help resolve privacy-related complaints at an early stage with maximum ease and effectiveness;
- c) Civil society and business on their respective roles in facilitating cross-border enforcement of Laws Protecting Privacy, and in particular in helping raise awareness among individuals on how to submit complaints and obtain remedies, with special attention to the cross-border context.

## About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

## OECD Legal Instruments

Since the creation of the OECD in 1961, around 460 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions** are adopted by Council and are legally binding on all Members except those which abstain at the time of adoption. They set out specific rights and obligations and may contain monitoring mechanisms.
- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.
- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.
- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.