GLOBAL CIVIL SOCIETY LETTER TO THE COUNCIL OF EUROPE

Cybercrime negotiations and transparency
Re: Cybercrime negotiations and transparency

Dear Secretary-General Jagland,

The Council of Europe has a very strong and exemplary history of transparency. Your Committees are open to observers from civil society, an openness which is frequently availed of, to the benefit of the Council itself and the benefit of the human rights of people both in Europe and globally.

Convention 185 of the Council of Europe (the “Cybercrime Convention”) has also been remarkably successful in terms of signatories – having been ratified not only by a large number of CoE Member States, but also by large and small states from around the globe.

In the context of the need to build on these successes, the current negotiation of a second “additional protocol” to the Cybercrime Convention raises multiple challenges for transparency, participation, inclusion and accountability. This is firstly due to the far broader geographic range of the countries likely to be impacted by the final agreement and, secondly, by the current arrangements for access to documents and consultation. Accountability, transparency, participation, and inclusion represent vital embodiments of the Council of Europe’s work.

As an example of the important documents that have not been released, we are concerned that we, the public, do not have access to Document T-CY(2017)19, the initial inventory of provisions to be prepared. All documents should be published, by default, and this should be insisted upon by the Council of Europe, to uphold its exemplary tradition of transparency and inclusion. Exceptions should be individually justified and internally reviewed.

We welcome the intention of the Council of Europe, as described in Document T-CY(2017)20 for “close interaction with civil society”. We do not see the need, however, to restrict this to the Octopus Conferences. Transparency and opportunities for input are needed continuously throughout the process. This ensures that civil society can listen to Member States, and provide targeted advice to the specific discussions taking place. Our opinions can build upon the richness of the discussion among States and experts, a discussion that civil society will miss if we are not invited to participate throughout the process. States and civil society need to fully engage with each other to achieve meaningful and mutually beneficial transparency and accountability in governance. This cannot exist without civil society participation from the initial steps of the process.
As a result, we call upon the Council of Europe’s Cybercrime Committee (T-CY) to develop a detailed plan for online debriefing sessions after each drafting meeting, both plenary and drafting, and to invite civil society as experts in the meetings, as is customary in all other Council of Europe Committee sessions.

With a diligent approach to making all possible documents public and proactively engaging with global civil society, the Council of Europe can both build on its exemplary approach to transparency and ensure that the outcome of this process is of the highest quality and achieves the widest possible support.

With best regards,

European Digital Rights (EDRi) - Europe
Electronic Frontier Foundation (EFF) - International
7amleh - Palestine
Access Now - International
Adil Soz - Kyrgyzstan
Afghanistan Journalists Center - Afghanistan
Albanian Media Institute - Albania
Africa Freedom of Information Centre - Africa
Americans for Democracy and Human Rights in Bahrain - USA
Apertura Radical - Ecuador
ARTICLE 19
Asociación para una ciudadanía participativa (ACI-Participa) - Honduras
Asociación por los Derechos Civiles (ADC) - Argentina
Association for Progressive Communications (APC) - International
Association for Technology and Internet (ApTI) - Romania
Asuntos del Sur - Argentina
Bytes for All - Pakistan
Canadian Journalists for Free Expression (CJFE) - Canada
Cartoonist Rights Network International - International
Center for Democracy & Technology (CDT) - USA
Center for Independent Journalism - Romania
Center for Media Freedom & Responsibility (CMFR) - Philippines
Chaos Computer Club (CCC) - Germany
Coding Rights - Brazil
Columbia Global Freedom of Expression - USA
Committee to Project Journalists - International
Cooperativa Sulá Batsú R.L. - Costa Rica
Child Rights International Network - International
Datysoc - Uruguay
Derechos.Online - Ecuador
Derechos Digitales - América Latina
Digital Rights Foundation (DRF) - Pakistan
Digital Rights Watch - Australia
Digitalcourage - Germany
East European Development Institute - Ukraine
Electronic Frontiers Australia - Australia
Electronic Privacy Information Center (EPIC) - United States
Enjambre Digital - México
Eticas Foundation - Spain
FAlmaison - France
Foundation for Media Alternatives - Philippines
Free Media Movement - Sri Lanka
Free Software Foundation Europe (FSFE) - European Union
Frënn vun der Ënn (FVDE) - Luxembourg
Fundación Acceso - Central America
Fundación Datos Protegidos - Chile
Fundacion Huaira - Ecuador
Fundación Karisma - Colombia
Fundación Via Libre - Argentina
Hermes Center for Transparency and Digital Human Rights - Italy
Hiperderecho - Peru
Horizontal - Mexico
Human Rights Online - Philippines
Hungarian Civil Liberties Union - Hungary
Ilico - France
ILOTH - France
International Modern Media Institute (IMMI) - Iceland
International Press Center - Nigeria
Internet Society, Philippines Chapter - Philippines
Intervozes - Brazil
IPANDETEC - Central America
IP Justice - USA
IT-Political Association of Denmark (IT-Pol Denmark) - Denmark
Jontion - Sénégal
La Quadrature du Net (LQDN) - France
Maharat Foundation - Lebanon
Media Foundation For West Africa - Africa
Media Institute of Southern Africa - Africa
MediaWatch - Bangladesh
Observatorio Latinamericano para la Libertad de Expression - OLA
Open Net Korea - South Korea
OpenMedia - Canada
Pacific Island News Association - Pacific
Pakistan Press Foundation - Pakistan
Panoptikon Foundation - Poland
Privacy International - International
Progetto Winston Smith - Italy
Samuelson-Glushko Canadian Interent Policy & Public Interest Clinic (CIPPIC) - Canada
SHARE Foundation - Serbia
SFLC.in - India
SocialTIC - Mexico
Social Media Exchange (SMEX) - Lebanon
SonTusDatos (Artículo 12, A.C.) - Mexico
South East European Media Organization (SEEMO) - Europe
Sursiendo, Comunicación y Cultura Digital - México
Red en Defensa de los Derechos Digitales (R3D) - Mexico
Rézine - France
TEDIC NGO - Paraguay
The Gambia YMCAs Computer Training Centre and Digital Studio - Republic of The Gambia
Trinidad & Tobago Publishers and Broadcasters Association - Trinidad & Tobago
Unwanted Witness - Uganda
Usuarios Digitales - Ecuador
Vigilance - Tunisia
Vrijschrift - The Netherlands