



Protocol on the use of personal information in decisions and postings of decisions on websites

CCAT considers it important to encourage, to the extent possible, a consistent approach to the use of personal information by administrative tribunals in their decisions and the posting of those decisions on websites. This protocol is of particular importance for those administrative tribunals that operate in accordance with the open court principle or that have enabling legislation specifying that their proceedings are in the public interest, and that post full texts of their written decisions on their website.

CCAT believes any policy in this regard should endeavour:

- to strike a balance between the open court principle and the privacy concerns of individuals availing themselves of their rights before administrative tribunals;
- to provide its members with a set of principles for the protection of personal information in conformity with which each administrative tribunal may voluntarily adopt individual measures adapted to its specific needs;
- to avoid placing administrative tribunals in the position of being required to prepare multiple versions of their decisions; and
- to assist administrative tribunals in determining the extent to which names and specific personal information should be included in their reasons for decisions.

In May 2005, the Canadian Judicial Council adopted the Protocol for the Use of Personal Information in Judgments (the CJC Protocol). In May 2009, the Heads of Federal Administrative Tribunals Forum (the Forum) adopted a statement on the use of personal information in decisions and posting of decisions on websites (the Forum Statement) that recommends the adoption of the CJC Protocol.

CCAT considers that the CJC Protocol and the Forum Statement together provide helpful guidance for administrative tribunals in assessing what personal information is relevant and necessary to support the reasons for a decision. Both documents clearly recognize the benefits of allowing decision makers to make that assessment. In December 2009, CCAT's Board adopted and endorsed the Forum Statement as it reflects a fair, respectful, and practical approach for administrative tribunals, striking a balance between the open court principle and privacy concerns. The CCAT Protocol is derived from the Forum Statement and also recommends the adoption of the CJC Protocol by its membership, where appropriate.

CCAT further recognizes that the "web robot exclusion protocol," which is respected by commonly used Internet search engines to restrict the global indexing of specifically designated documents posted on websites, is an acceptable technical means for providing fair protection to personal information contained in administrative tribunals' decisions posted on their websites.

While respecting the legitimate needs of administrative tribunals to develop practices that best address the specific concerns of the proceedings they administer, CCAT encourages its members where their respective organizations operate in accordance with the open court principle or have enabling legislation specifying that its proceedings are in the public interest, and that post full texts of its written decisions on its website to consider all or some of the following, when appropriate for their organizations:

- providing a hyperlink on its website to this statement on CCAT's website and to the CJC Protocol on the Canadian Judicial Council's website;
- adopting the CJC Protocol;
- making the CJC Protocol part of any training program offered to its decision makers;
- applying the "web robot exclusion protocol" to all full text decisions containing personal information that are posted on its website;
- giving notice to individuals availing themselves of their rights before it (e.g., on its website, in its administrative letters opening case files, and on the forms that parties must complete to initiate proceedings) that it posts its decisions in full on its website.

For more information, please see:

Statement from the Heads of Federal Administrative Tribunals
Forum <http://www.hfatf-fptaf.gc.ca/news-nouvelles-06-26-2009-eng.php>

The Canadian Judicial Council CJC
Protocol http://www.cjc-ccm.gc.ca/cmslib/general/news_pub_techissues_UseProtocol_2005_en.pdf