

BEFORE THE PRESIDENT, THE VICE-PRESIDENT, SIR RICHARD MCLAUGHLIN,
MR CHARLES FLINT QC AND MS SUSAN O'BRIEN QC

B E T W E E N:

PRIVACY INTERNATIONAL

Claimant

-and-

(1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

(2) SECRETARY OF STATE FOR THE HOME DEPARTMENT

(3) GOVERNMENT COMMUNICATIONS HEADQUARTERS

(4) SECURITY SERVICE

(5) SECRET INTELLIGENCE SERVICE

Respondents

ORDER

UPON hearing Leading Counsel and Counsel for the Claimant, and Leading Counsel for the Respondents at a hearing from 25 to 29 July 2016

AND UPON considering further written submissions from the Respondents dated 29 July 2016, the Claimant dated 5 August 2016 and from the Respondents dated 26 August 2016

THE TRIBUNAL DETERMINED that:

1. The Respondents' bulk personal datasets ('BPD') regime was not in accordance with the law under Article 8(2) ECHR until 11 March 2015, but has been in accordance with the law under Article 8(2) ECHR since that date.
2. The Respondents' bulk communications data ('BCD') regime under section 94 of the Telecommunications Act 1984 ('TA') was not in accordance with the law under Article

8(2) ECHR until 4 November 2015, but has been in accordance with the law under Article 8(2) ECHR since that date.

3. There is and has at all material times been (subject to any impact of the EU issues to be determined) a power to obtain BCD by the issue of directions under section 94 of the TA.

AND DIRECTED that

4. The Respondents do file and serve any OPEN and CLOSED evidence as to the issue of whether Article 8 ECHR has been and is satisfied in respect of the arrangements for transfer by the Third, Fourth and Fifth Respondents of BPD and/or BCD to other bodies, including foreign partners and other UK Law Enforcement Agencies by Friday 25 November 2016.
5. CtT to serve his CLOSED submissions in relation to the Respondents' CLOSED evidence by 4pm on Thursday 8 December 2016.
6. The Respondents to serve their response to the CtT's submissions by 4pm on Wednesday 21 December 2016.
7. The CtT and counsel to the Respondents to meet by Friday 13 January 2017 to seek agreement if possible in relation to the issues raised by their respective submissions. A CLOSED hearing is to be listed thereafter if necessary to consider any outstanding issues.
8. The hearing listed for 1-2 December 2016 be vacated. An OPEN hearing be listed for the first available date after 23 January 2017 with a time estimate of 3 days. The parties to liaise over appropriate directions for that hearing and to apply to the Tribunal for resolution of any disagreement as to those directions.
9. Liberty to apply.

Dated 31 October 2016