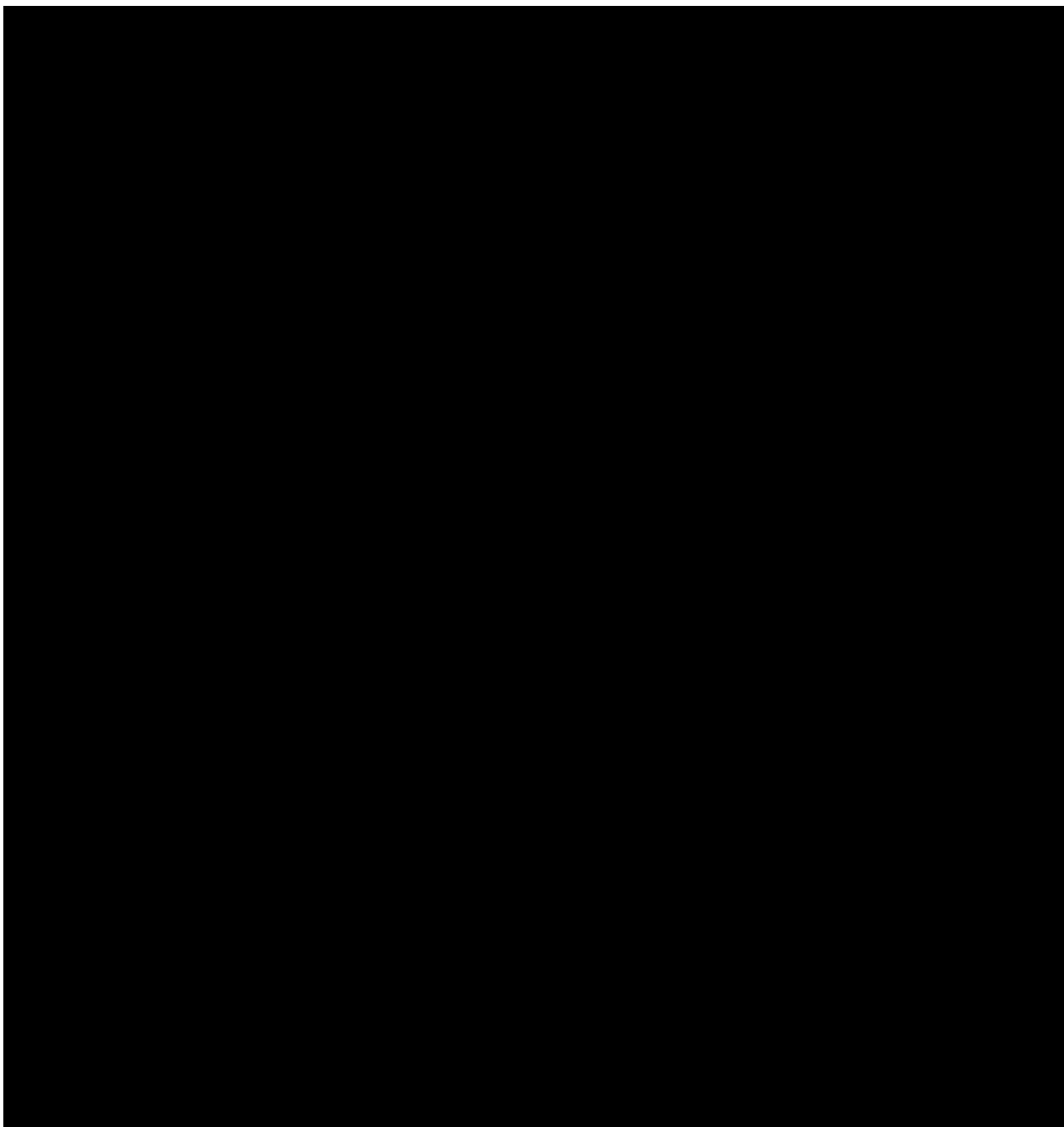


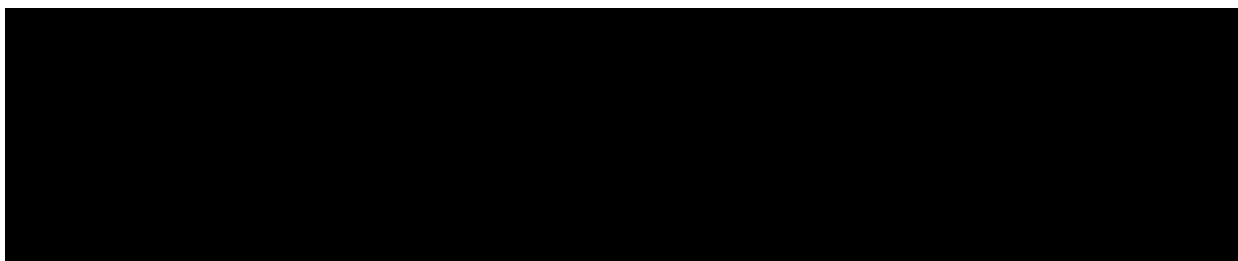
### **Annex describing the study**

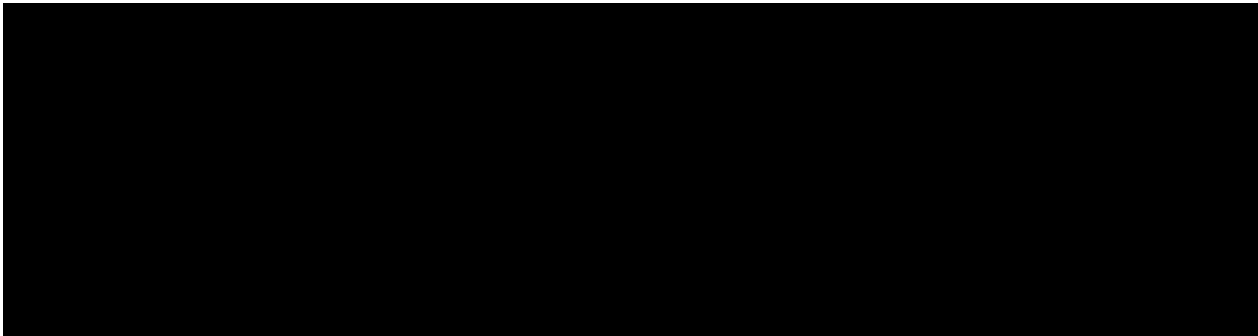
This annex further specifies the study identified in the art. 1.2 of the tender specification.<sup>1</sup>

**Title: Government access to data in third countries**



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The study should focus on the following countries:

- China
- India
- Russia

In particular, the study should answer the following questions with a special emphasis on questions 3 4 and 5:

**1. Rule of law, respect for human rights and fundamental freedoms**

- What is the general situation regarding the rule of law and respect for human rights and fundamental freedoms in the country according to international reports and findings from public bodies (e.g. Council of Europe Venice Commission, UN Human Rights Council and Human Rights Committee) and renowned non-governmental bodies (e.g. Amnesty International, Human Rights Watch, Privacy International)?
- What are the country's international commitments in the field of human rights and in particular regarding the rights to privacy and data protection?

**2. Legal or policy instruments regulating government access to personal data, especially for law enforcement or intelligence purposes:**

- What are the substantive and procedural conditions for access to personal data by public authorities, including law enforcement and intelligence agencies? Are these conditions defined and set by domestic law? If yes, which institutions are involved in the adoption of these legal instruments and may amend or repeal them?

**3. Conditions for government access to data:**

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should be given to the legal regimes governing “surveillance programmes”, in particular the access by public authorities, including national security agencies, to personal data processed by electronic communication services as well as to the “backbone” of the internet.

<sup>5</sup> The caveat to be added reads as follows *“The information and views set out in this study are those of the author(s) and do not reflect the official opinion of the EDPB. The EDPB does not guarantee the accuracy of the data included in this study. Neither the EDPB or any person acting on the EDPB’s behalf may be held responsible for the use which may be made of the information contained therein.”*

- For what specific purposes may government bodies access personal data of foreign individuals (e.g criminal investigations of serious crime, foreign intelligence, etc)?
- What conditions must government bodies (e.g. police, intelligence agencies and others) meet to have access to personal data of foreign individuals (e.g. use of pre-approved selectors, judicial warrant, administrative orders)?
- What national bodies authorize government access to data and what is their institutional status, in particular in term of autonomy and independence from the executive?

#### **4. Oversight over government access to data:**

- What administrative and/or judicial bodies supervise government access to data?
- Are those bodies independent, and if so, how is their independence guaranteed?
- Which powers are these bodies vested with and what measures may they take in case of non-compliance by public authorities?

#### **5. Data subject rights:**

- What are the rights available to foreign individuals in relation to the government's access to their personal data? And in what kind of legislation are those rights provided?
- What are the administrative and judicial redress mechanisms available to individuals for the enforcement of their rights? What are the conditions for the exercise of these rights?

