



CAIDP Update 2.18 (May 9, 2021) – *China Moves Forward Data Protection / AI Law*

China's National Peoples' Congress has released a second draft of the Personal Information Protection Law (PIPL). The law is comprehensive, and is intended to regulate big tech firms in China, who are under increasing scrutiny. DigiChina, a cyber policy center at Stanford University, has provided an [English translation](#) of the law.

The PIPL reflects a notable alignment with the GDPR, the data protection law of the European Union that has influenced much of modern privacy law. DigiChina notes [four key developments](#) in the second draft of the law: (1) enhanced scrutiny for tech platforms that operate as gatekeepers (echoing provisions in the EU DSA and DMA); (2) restrictions on disclosures of personal data to foreign law enforcement or judicial agencies (perhaps a response to the US CLOUD Act); (3) delegating to the Cyberspace Administration of China the key role for developing regulations; (4) a provision that transfers post-mortem privacy rights to next of kin. Other [significant changes](#) in the second draft are: consent withdrawal (article 16); request to delete information (article 47); and tort liability in cases of harm to interests related to personal data (Article 68).

Several provisions in the PIPL address AI policy. Article 7 states that “The principles of openness and transparency shall be observed in the handling of personal information, disclosing the rules for handling personal information and clearly indicating the purpose, method, and scope of handling.” Article 25 provides for algorithmic transparency in the context of automated decision making: “the transparency of the decision making and the fairness and reasonableness of the handling result shall be guaranteed.” There is an explanation obligation and also a right to obtain a human decision. Article 55 establishes a risk assessment obligation for automated decision-making.

At the same time, Article 27 allows for the routine collection of images and identity to “safeguard public security,” subject only to the posting of signage. Violations of PIPL are reported in credit files, though not apparently the social scoring system. “Where unlawful acts as provided in this law occur, they will be entered into credit files as provided by relevant laws and administrative regulations, and be published.” And Article 61 assigns to the state Cybersecurity agency authority to “formulate specialized personal information protection rules and standards for new technologies and new applications regarding sensitive personal information, facial recognition, artificial intelligence, etc.”

The Chinese government will accept [comments](#) on the draft privacy law until May 28.