

## **Mass Surveillance Endangers Freedom of Expression in Macedonia**

Metamorphosis, the IFEX member from Macedonia, [expressed](#) grave concern about the publicly announced allegations of mass and unauthorized surveillance of citizens, performed through criminal association and official misconduct in the state institutions and/or influential corporations. Invasions of privacy directly affect freedom of expression in Macedonia, and fueling the overall climate of fear and silence.

"The right to privacy is an extremely important human right, and the threat to privacy is also a direct threat to our freedom. Authorities must make the decisions on wiretapping and surveillance in accordance with the applicable laws. Those decisions must not be arbitrary decisions made by individuals who have the power to do so. The allegations for mass eavesdropping of more than 20,000 citizens are very serious and the public must seek responsibility from the relevant institutions"- said Bardhyl Jashari, director of the Metamorphosis Foundation.

Metamorphosis reminded the public that the protection of privacy, the protection of personal data, and the protection of human rights related to freedom and dignity that may be violated by eavesdropping, is stipulated by the Constitution of the Republic of Macedonia and protected by number of laws, including the Law on Personal Data Protection, while the Criminal Code sanctions unauthorized wiretapping. On the other hand, the [2014 European Commission Progress Report on the Republic of Macedonia](#) indicated that it is necessary to further adjust the sector-specific laws in order to fully comply with the European regulations on personal data protection.

Setting the protection of privacy as a priority in building an information society, Metamorphosis has since 2004 publicly indicated, on a number of occasions, the possibility for abuse due to the lack of mechanisms for supervision over institutions that have the capacity to conduct eavesdropping by the Parliament. In [2008](#), [2010](#) and [2012](#) it advocated against increasing of that capacity without any accountability mechanisms for a number of state bodies, contesting amendments to the [Law on Electronic Communications](#) and the laws affecting [investigative procedures](#).

### **Background**

On February 9, 2014, the Macedonian opposition leader Zoran Zaev held a press conference in Skopje announcing that his party, the Social Democratic Union of Macedonia (SDSM) obtained evidence that over 20.000 Macedonian citizens were subject to unauthorized surveillance. He stated that he is pressing charges for the massive wiretapping against PM Nikola Gruevski and his cousin, the director of the Counterintelligence Service, and an associate. Zaev also revealed that the evidence was provided by whistleblowers working for the Security Service who now seek amnesty for their cooperation.

State surveillance is crucial element in maintaining the rule by fear in Macedonian society. Privacy concerns affect a spiral of silence, affecting media, politicians, and daily conduct of citizens, even

private conversations at home, directly diminishing freedoms of expression and assembly. The [“Eurometar” survey](#) published by MCET in December 2014 showed that majority of citizens expressed fear to express their opinions (53%), and that 64% of citizens think that they are being exposed to state surveillance.

Zaev announced “detonating a political bombshell” several months ago, claiming that he’s obtained irrefutable evidence of massive corruption and abuse of power by the current government. The government tried to prevent this by claiming that he tried to [blackmail](#) the Prime Minister in order to force his resignation. On January 31, they announced pressing [criminal charges for espionage](#), “violence against government” and “overthrowing of constitutional order” against several persons, mostly former and current employees of Ministry of Interior, but also against Zaev. However, unlike the other five suspects, Zaev was not arrested, but only had to deposit his passport with the Public Prosecutor.

By declaring the future evidence that might become public an element ongoing criminal investigation, the authorities attempted to muzzle the media and prevent reporting on the opposition allegations. On February 3 the Public Prosecutor's Office issued a statement that “publishing of materials that may become the subject of further criminal proceedings is forbidden and punishable by law.” Local independent media branded this as attempt of [preemptive censorship](#) attempt of material of high public interest. It also incited reactions by the international community, expressing concern and demands for clarification. For instance, the U.S. Embassy [stated](#):

“We are concerned that the media in Macedonia may interpret the statement of the Public Prosecutor’s Office to mean that it should not be playing this important role. We urge authorities to provide a clear legal justification for the February 3 statement, specifying the narrow circumstances where information must be treated as an official secret, and explaining how journalists will know when such narrow circumstances apply.”

In the days prior to the conference, in order to show that Zaev was a “foreign spy” a pro-government TV Sitel aired two murky clips from private meeting between him and Gruevski, filmed in PM’s cabinet. They claimed they found it on YouTube and that it shows admission by opposition leader that he obtained the evidence from foreigners. The public prosecutor did not sanction the TV, and while the Ministry of Interior claimed it will act for the videos to be removed, they still remain on YouTube and are widely shared by government supporters.

Zaev later explained that he was just attempting to protect the whistleblowers from harassment by the PM. Legal experts noted that spying is legally defined as providing information to foreign services, while the Macedonian laws do not sanction receiving information from abroad. While the Government code-named the operation against Zaev [“Coup d’etat,”](#) while he repeated that SDSM’s goal is removal of corrupt politicians, and forming of the technical government that would conduct fair elections. “It’s certainly not clear to me yet what crime may have been committed or is alleged to have been committed,” US State Department official Thomas O. Melia [said](#).

According to META.mk [report](#) from the February 9 conference, Zaev said that all persons of some significance in the society, “all the judiciary, the Synod of the Orthodox Church, NGOs, and journalists were tapped.” He played leaked conversations between current government ministers, indicating that [surveillance also extended to cadres of the ruling party](#), VMRO-DPMNE, and their

coalition partners. According to him, only the Prime Minister Nikola Gruevski and the Director of the Intelligence and Security Sasho Mijalkov were not tapped. They allegedly received daily reports from the 24/7 surveillance operation that especially targeted political opponents during elections. Zaev also implied complicity of the major telecom operators with this massive operation.

After the initial revelation, SDSM [announced](#) that they will continue to publish evidence of government corruption, gradually showing the overall effects of the control by the leadership of VMRO-DPMNE on the society. The allegations incited number of reactions demanding impartial investigation by independent media, civil society and international community, as issues of independence of the judiciary have been noted as one of the main obstacles to building democracy and preserving [human rights](#) in Macedonia, within reports issued by the EU and the U.S.