EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
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Forthcoming hearings in July 2019

The European Court of Human Rights will be holding the following two hearings in July 2019:

Big Brother Watch and Others v. the United Kingdom (application nos. 58170/13, 62322/14 and 24960/15), which concerns complaints by journalists, individuals and rights organisations about three different surveillance regimes: (1) the bulk interception of communications; (2) intelligence sharing with foreign governments; and (3) the obtaining of communications data from communications service providers;

Centrum för rättvisa v. Sweden (no. 35252/08), which concerns a complaint brought by a non-profit foundation about legislation permitting the bulk interception of electronic signals in Sweden for foreign intelligence purposes.

After these hearings the Court will begin its deliberations, which will be held in private. Its ruling in the cases will, however, be made at a later stage. A limited number of seats are reserved for the press in the hearing room. To be sure of having a seat, you need to book in advance by contacting the Press Unit at echrpress@echr.coe.int.

On 10 July 2019 at 9.15 a.m.: Grand Chamber hearing in the case Big Brother Watch and Others v. the United Kingdom (application nos. 58170/13, 62322/14 and 24960/15)

The three joined applications are *Big Brother Watch and Others v. the United Kingdom* (no. 58170/13); *Bureau of Investigative Journalism and Alice Ross v. the United Kingdom* (no. 62322/14); and *10 Human Rights Organisations and Others v. the United Kingdom* (no. 24960/15). The 16 applicants are organisations and individuals who are either journalists or are active in campaigning on civil liberties issues.

The applications were lodged on 4 September 2013, 11 September 2014 and 20 May 2015 respectively, after Edward Snowden, a former US National Security Agency (NSA) contractor, revealed the existence of surveillance and intelligence-sharing programmes operated by the intelligence services of the United States and the United Kingdom.

The applicants believe that the nature of their activities means that their electronic communications and/or communications data were likely to have been intercepted or obtained by the UK intelligence services.

Relying on Article 8 (right to respect for private and family life and correspondence) of the European Convention on Human Rights, they complain in particular about the regimes for the bulk interception of communications, intelligence sharing and for the acquisition of data from communications service providers.

The second and third applications also raise complaints under Article 10 (freedom of expression) of the European Convention related to the applicants' work, respectively, as journalists and non-governmental organisations.

The third application relies in addition on Article 6 (right to a fair trial) of the European Convention, in relation to the domestic procedure for challenging surveillance measures, and on Article 14

(prohibition of discrimination), combined with Articles 8 and 10 of the Convention, alleging the regime for the bulk interception of communications discriminated against people outside the United Kingdom, whose communications were more likely to be intercepted and, if intercepted, selected for examination.

In its Chamber judgment of 13 September 2018, the European Court of Human Rights held, by five votes to two, that the bulk interception regime violated Article 8 of the Convention as there was insufficient oversight both of the selection of Internet bearers for interception and the filtering, search and selection of intercepted communications for examination, and the safeguards governing the selection of "related communications data" for examination were inadequate. In reaching that conclusion, the Chamber found that the operation of a bulk interception regime did not in and of itself violate the European Convention, but noted that such a regime had to respect criteria set down in its case-law.

The Chamber also held, by six votes to one, that the regime for obtaining communications data from communications service providers violated Article 8 as it was not in accordance with the law, and that both the bulk interception regime and the regime for obtaining communications data from communications service providers violated Article 10 of the European Convention as there were insufficient safeguards in respect of confidential journalistic material.

It further found that the regime for sharing intelligence with foreign governments did not violate either Article 8 or Article 10.

Lastly, the Chamber unanimously rejected complaints by the third set of applicants under Article 6, about the domestic procedure for challenging secret surveillance measures, and under Article 14.

On 4 February 2019 the Grand Chamber Panel accepted the applicants' request that the case be referred to the Grand Chamber.

On 10 July 2019 at 2.45 p.m.: Grand Chamber hearing in the case Centrum för rättvisa v. Sweden (no. 35252/08)

The applicant, Centrum för rättvisa, is a non-profit foundation which was set up in 2002 and represents clients in rights litigation, in particular against the State. It is based in Stockholm.

The application was lodged with the European Court of Human Rights on 14 July 2008.

The applicant foundation believes in particular that there is a risk that its communications through mobile telephones and mobile broadband have been or will be intercepted and examined by way of signals intelligence.

Signals intelligence can be defined as intercepting, processing, analysing and reporting intelligence from electronic signals. In Sweden the collection of electronic signals is one form of foreign intelligence and is regulated by the Signals Intelligence Act. This legislation authorises the National Defence Radio Establishment (FRA), a Government agency organised under the Ministry of the Defence, to conduct the signals intelligence.

The applicant foundation alleges that Swedish legislation and practice in the field of signals intelligence has violated and continues to violate its rights under Article 8 (right to respect for private and family life, the home and the correspondence) of the European Convention on Human Rights. It has not brought any domestic proceedings, arguing under Article 13 (right to an effective remedy) of the European Convention that there is no effective remedy in Sweden for its Convention complaints.

In its Chamber judgment of 19 June 2018, the European Court of Human Rights held, unanimously, that there had been no violation of Article 8 of the Convention.

The Chamber considered that the relevant legislation amounted to a system of secret surveillance that potentially affected all users of mobile telephones and the Internet, without their being notified. Also, there was no domestic remedy providing detailed grounds in response to a complainant who suspected that his or her communications had been intercepted. On that basis, the Chamber found it justified to examine the legislation in the abstract. The applicant foundation could claim to be a victim of a violation of the Convention, although it had not brought any domestic proceedings or made a concrete allegation that its communications had actually been intercepted. The mere existence of the legislation amounted in itself to an interference with its rights under Article 8.

The Chamber went on to say that, although there were some areas for improvement, overall the Swedish system of bulk interception provided adequate and sufficient guarantees against arbitrariness and the risk of abuse.

Given those findings, the Chamber considered that there were no separate issues under Article 13 and held that there was no need to examine the foundation's complaint in that respect.

On 4 February 2019 the Grand Chamber Panel accepted the applicant's request that the case be referred to the Grand Chamber.

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)
Patrick Lannin (tel: + 33 3 90 21 44 18)
Somi Nikol (tel: + 33 3 90 21 64 25)