On November 2015, a draft bill on surveillance was introduced to the British Parliament by Theresa May, Home Secretary of the UK. Designed to reinforce the investigative powers of the police and intelligence services, the text grants to police forces, tax inspectors and other public servants the power to access data related to communications’ traffic (including internet communications) without prior judicial review. Dunja Mijatović, OSCE Representative for Media freedom said: “The proposed bill provides for a wide expanse of surveillance activities that could fundamentally alter the way the state protects the freedom to seek, receive and impart information. (…) Any legislation that allows government snooping must be narrowly drawn and include guarantees, as a basic pre-condition for investigative journalism”. Journalists of the Guardian daily called for the revision of the draft bill nicknamed ‘snooper's charter’ : “If sources understand they can be identified in this way they will be reluctant to risk dismissal (or possibly prosecution) to pass on information”.

16 Sep 2019: On 29 July 2019, deciding on all grounds that had not been previously submitted to judicial review, including powers to practice mass collection of information, to hack devices and build personal data sets, the High Court of England and Wales ruled in favour of the government, refusing to find any incompatibility between the IPA and the 1998 Human Rights Act.

17 May 2019: On 15 May 2019, the Supreme Court, on appeal on points of law from a Court of Appeal judgment of 23 November 2017 (Privacy International v. Investigatory
Powers Tribunal [2017] EWCA Civ 1868, held that decisions by the Investigatory Powers Tribunal (IPT) are subject to judicial review in the High Court.

11 Feb 2019: On 4 February 2019, the Grand Chamber's Panel of the European Court of Human Rights decided to refer the 13 September 2018 judgment in Big Brother Watch and Others v. United Kingdom to the Grand Chamber. The Court had found that practices of mass surveillance operated by US and UK intelligence agencies under the previous legal regime violated Articles 8 and 10 of the European Convention on Human Rights, on the grounds that safeguards to protect the confidentiality of journalistic sources were inaccurate; oversight of the selection process, including the selection of bearers for interception, the selectors and search criteria for filtering intercepted communications, and the selection of material for examination by an analyst, was lacking.

European Court of Human Rights, Big Brother Watch and Others v. United Kingdom, applications n° 58170/13, 62322/14 and 24960/15, judgment of 13 September 2018

02 Nov 2018: On 1 November 2018, the amended Data Retention and Acquisition Regulations of 2018 entered into force.

Data Retention and Acquisition Regulations of 2018

13 Jul 2018: On 11 July 2018, the Government proposed some changes to the IPA, which include the definition of “serious crime” as crime that could attract prison sentences of at least six months.

Article from The Register: "UK.gov agrees to narrow 'serious crime' definition for slurping comms data"

01 May 2018: On 27 April 2018, the High Court of England and Wales quashed Part 4 of the Investigatory Powers Act of 2016 (IPA), which replaces the DRIPA since 1 January 2017, on grounds similar to those supporting the Court of Appeal’s judgment against the DRIPA. The High Court awarded the Government until 1 November 2018 to amend the IPA in view of the judgment.

R (Liberty) v. Home Secretary and Foreign and Commonwealth Secretary [2018] EWHC 975 (Admin)

01 Feb 2018: On 30 January 2018, the Court of Appeals rejected the appeal against a judgment of 17 July 2015 (R v. Home Secretary [2015] EWHC 2092 (Admin) and [2016] 1 CMLR 13) by which the High Court of England and Wales had found the Data Retention and Investigatory Powers Act of 2014 (DRIPA) illegal. Taking the ECJ judgment of 21 December 2016 (Grand Chamber) Home Secretary v. Tom Watson (Case C-698/15) into
consideration, the Court held that the DRIPA was incompatible with EU law as the collection of personal data was not restricted to the investigation of serious crime, and the police authorities' access to the data was not subject to review.

- Article published by the Guardian: "UK mass digital surveillance regime ruled unlawful"
- European Court of Justice (Grand Chamber), judgment of 21 December 2016 (joint cases Tele2 AB v. Post- och telestyrelsen, C-203/15 and Home Secretary v. Tom Watson and others, C-698/15)


18 Nov 2016: On 17 November 2016, the House of Lords has passed the Investigatory Powers Bill. The House of Lords' agreement to the text means that it just awaits Royal Assent to become law.

07 Mar 2016: The UK Government introduced proposals to Parliament, revising the draft Investigatory Powers Bill. The Parliament is expected to review the re-drafted Bill and pass the final version by the end of 2016, when the current legislation governing surveillance laws expires.

- Revised draft surveillance bill as published on 1 March 2016
- Article published on the BBC website: “Surveillance law: Revised bill adds privacy safeguards”

ADDITIONAL INFORMATION

- Letter of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression/UN Special Rapporteur on the rights to freedom of peaceful assembly and of association/UN Special Rapporteur on the situation of human rights defenders
- Text of the 2016 Investigatory Powers Act (IPA)
- Statement from Article 19: "UK: Investigatory Powers Bill needs redraft, not review"
- Article published by le Monde (in French): 'Le Royaume-Uni va renforcer sa surveillance du Web'
- Article published by the Guardian: 'This surveillance bill threatens investigative journalism'
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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<tr>
<td>17 May 2016</td>
<td>Commissioner publishes Memorandum on surveillance in the UK</td>
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<tr>
<td>18 Nov 2016</td>
<td>OSCE Representative warns of negative consequences for investigative journalism when Investigative Powers Bill becomes law in the United Kingdom.</td>
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<tr>
<td>13 Sep 2018</td>
<td>On 13 September 2018, the ECHR ruled that the bulk interception regime and the regime for obtaining communications data from communications service providers violated both article 8 and article 10. With regard to article 10, the Court stressed that 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. This judgment is not final.</td>
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<tr>
<td>17 Sep 2018</td>
<td>OSCE Representative welcomes landmark decision by European Court of Human Rights on Investigatory Powers Act in the United Kingdom.</td>
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<td>15 Dec 2015</td>
<td>Response of the United Kingdom Government</td>
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<td>10 Nov 2015</td>
<td>Press release by the National Union of Journalists (NUJ) : 'UK surveillance Bill: Parliament swallowing an iceberg, says NO2ID'</td>
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consideration of new Investigatory Powers Bill in the United Kingdom

Press release by OSCE media freedom representative

RELEVANT COE INSTRUMENTS

29 Feb 2016  |  Factsheet on Mass Surveillance

- Overview of the ECHR case law and other relevant Council of Europe resources related to Mass Surveillance

04 Jan 2016  |  Venice Commission Report


DISCLAIMER  This section presents a non-exhaustive selection of CoE instruments and ECHR case-law. This information is not a legal assessment of the alert and should not be treated or used as such.