

27
Sep 2018

⚠ Lvl. 2

State
replied

Switzerland

Alert created on: 09 Sep 2016

Swiss Intelligence Act Threatens Secrecy of Journalistic Sources

SOURCE OF THREAT ▶ State

CATEGORY ⓘ ▶ Other acts having chilling effects on media freedom

PARTNER: EFJ/IFJ, RSF

The three main journalists' organisations in Switzerland, impressum, syndicom and SSM, have condemned the draft Intelligence Act (Lrens) that is currently being put to a Referendum. According to the organisations representing journalists, this draft is a threat to the protection of journalistic sources and thus the right of Swiss citizens to be fully informed. The reservations foreseen under the Act in favour of people who are subject to professional secrecy, including journalists, do not sufficiently guarantee the protection of whistleblower's anonymity which is key to disclosing information in the interest of the public. The three journalists' organisations also condemn the means granted to intelligence services to access private exchanges of communication of journalists. Concretely, the text legalises the practice, to be carried out by the intelligence services (Service de renseignement de la Confédération), of a particularly broad and intrusive surveillance of the private lives of citizens, without any real counter- power. The organisations of journalists demand that the law contains explicit guarantees to ensure that the protection of sources cannot be bypassed by the power granted to authorities to access private communications of journalists and whistleblowers.

UPDATES

27 Sep 2018: On 27 September 2018, Société numérique/Digitale Gesellschaft took this judgment of the Federal Court to the European Court of Human Rights.

➡ Article by RTS (in French): "Les opposants à la surveillance d'Internet veulent déposer plainte"

02 Mar 2018: On 2 March 2018, the Federal Court (case 1C-598/2016) upheld the Federal Administrative Court's judgment of 9 September 2016 rejecting an appeal by Federal Counsellor Bathasar Glättli, journalist Dominique Strebel and Société

numérique/Digital Gesellschaft against the retention of login data provided by the LRens, on the grounds that the restrictions on fundamental rights operated by mass surveillance are proportionate.

➔ [Case 1C-598/2018](#)

➔ [Article by Digitale Gesellschaft: "Teilerfolg im Verfahren gegen die Vorratsdatenspeicherung"](#)

30 Oct 2017: On 30 October 2017, lawyer Marcel Bosonnet, journalists Serena Tinari and Noëmo Landolt as well as Heiner Busch (Solidarity Without Borders), Andre Meister (netzpolitik.org) and Norbert Bollow and Erik Schonberger (Société numérique/Digitale Gesellschaft) lodged an appeal before the Federal Administrative Court (case A-6143/2017) against the SRC's rejection of their request not to explore the cable network on the basis of connection data provided by telephone companies.

➔ [Article by Digitale Gesellschaft \(in French\): "La Société Numérique dépose plainte contre l'exploration du réseau câblé"](#)

01 Sep 2017: On 1 September 2017, the LRens (RO 2017, 4095) came into force to replace the Federal Civil Intelligence Act (LFRC) of 3 October 2008 and the Federal Act establishing measures to maintain homeland security (LMSI). Also came into force: Ordinances on the Intelligence Service (ORens); on the Federal Intelligence Service's information systems and data storage systems (OSIS-SRC); on the Surveillance of Intelligence Activities (OSRens).

➔ [Federal Intelligence Act \(LRens\)](#)

➔ [Information published by the Federal Department of Defence, Civil Protection and Sport \(in French\): « Loi sur le renseignement »](#)

25 Sep 2016: On 25 September 2016, following the recommendation of the Federal Council and the Federal Parliament, the Swiss people approved the Federal Intelligence Act (LRens) of 25 September 2015 by 65.5% against 34.5%.

➔ [Article by "24 heures" \(in French\): "Le «oui» du peuple renforce l'arsenal du renseignement"](#)


ADDITIONAL INFORMATION

➔ [Venice Commission, Report of 15/12/2015 on the democratic oversight of security services, Doc. CDL-AD\(2015\)010](#)

➔ [Factsheet on « Mass surveillance »](#)

 [Press Release by EFJ \(in French\): "Suisse: menaces sur la protection des sources"](#)

STATE REPLIES

 **16 Sep 2016** | Reply by the Swiss authorities

 [Text of the reply \(in French\)](#)

FOLLOW-UPS



06 Oct 2015 | Letter from the Commissioner for Human Rights of 23 September 2015 to Mr Ueli Muller, Federal Councillor, on the Intelligence Bill; Ueli Muller's response of 6 October 2015 (in French).

 [Letter from Mr Nils Muižnieks](#)

 [Letter from Mr Ueli Muller](#)