



BACKGROUND

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INTERCEPTION OF TELECOMMUNICATIONS IN ALBANIA

Control and Oversight

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Summary

A law which for the first time provided for an overall regulation of the interception of telecommunications in Albania was adopted by the Parliament in 2003. Vague provisions in the basic laws of intelligence and law enforcement agencies providing for the right of use of techniques for electronic surveillance became inadequate for dealing with the explosion of new communications technologies and the requirements for higher standards in respecting basic human rights and freedoms. The benefits from the interception of communications have been evident since intelligence and law enforcement agencies began to make use of it. The contribution of interceptions can be easily appreciated through a quick examination of figures provided by the police on the amount of drugs seized, the number of criminal rings disrupted and number of arrests made during the last years.

Interception of communications is a special power, with direct effect on civil liberties, that intelligence and law enforcement agencies are granted in order to deal with major threats to national security and public order. European Convention of Human Rights, the Constitution of the Republic of Albania and case law of the European Court of Human Rights stipulate that such powers can be granted only by a legal regime which is clear, foreseeable and accessible.

Best practices of democratic oversight suggest that, there must be control and oversight mechanisms in place in order to guarantee that powers granted to intelligence and law enforcement agencies are used only when justified and according to strict legal criteria. Further, the executive, the legislative and the judiciary assume responsibilities in the control and oversight process.

But does the legislation on interception of telecommunications provide for the creation of powerful and efficient safeguards that meet both the need for intercept products so indispensable for the intelligence and law enforcement agencies and the requirements for full protection of basic human rights and freedoms? Do control and oversight mechanisms involving the executive, the legislative and the judiciary exist?

The Albanian law on interception of communications, although in a watered down manner, provides for – the authorities responsible for issuing warrants; application and issuing procedures; grounds for issuing the warrants; duration and renewal of warrants; some internal safeguard measures. However, the

law makes no specification on the control mechanisms by the executive and no mention of parliamentary or judiciary oversight.

This backgrounder is a first attempt by civil society organisations that tries to draw attention on the status of democratic control of the interception of telecommunication process. The backgrounder looks at the existing legislation by confronting it with norms and standards for democratic oversight of security and intelligence services and the best practices on authorization of special powers in accordance with European Convention of Human Rights and the case law of European Court of Human Rights.

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