

## **Description of a recent dispute on surveillance in Poland**

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Recently in Poland there arose a dispute over the subject of surveillance - the Ministry of Administration and Digitalisation and the MFA claim that the Ministry of Internal Affairs would like to grant too much power to the secret services.

The negative comments present the government's attitude towards a draft of a bill regulating the secret services' operation, which has been worked out by Senat (the upper chamber of the Polish parliament) and is currently in Sejm (the lower chamber). The draft concerns the ability to reach telecommunication data by the services, including billings, location of cell phones and personal data of the phone users. The data can be obtained by the Police and other services e.g. the Internal Security Agency, the Central Anti-Corruption Bureau and the Internal Revenue Service without the court's permit. Such a permit is needed in cases of the operational control, including wiretapping and correspondence surveillance. Last year these institutions submitted more than 2 million requests to the mobile phone operators.

Already a year ago the Constitutional Tribunal questioned the draft of a bill. The Tribunal wished the services to be overseen by an independent authority, while reaching for the data. As a result the Senat decided that the control will be executed by the court, unfortunately on a backwards/retrograde basis. That means that the secret services will have to submit reports on surveillance to the court only once every 6 months. Surveillance of people that perform jobs of public trust, e.g. doctors, lawyers or journalists will be subjected to other regulations.

As the control of the court will most probably be purely illusive, the draft of the bill is widely criticized. General Office for Personal Data Protection (GIODO) commented that it could pose a threat to the democratic mechanisms of power. The comment suggests that the secret services could be able to influence politicians by using the new regulation.

However, the Ministry of Internal Affairs seems to be determined to put the bill through the parliament, while the position of the Ministry of Administration and Digitalisation and the MFA is weak on this matter. The comments are that the political decision concerning the new bill seems to already have been taken. The bill will not get passed through the parliament before the parliamentary elections, 25<sup>th</sup> October.