

# National intelligence authorities and surveillance in the EU: Fundamental rights safeguards and remedies

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# Summary

- [1]. This deliverable summarises the powers of intelligence authorities, means of mass surveillance and related fundamental rights safeguards and remedies in Hungary. The deliverable does not focus on surveillance relating only to suspect individuals, and excludes practices by the police, customs and public prosecution authorities and National Security Services undertaken for the purpose of criminal investigations or the prevention of immediate threats.
- [2]. The law primarily allows the “**National Security Services**” to carry out secret surveillance. The law uses this name for a group of four agencies (note: there is no single institution called National Security Services). These four services, which are independent of each other, and are controlled by the Minister of the Interior, Minister of Defence, or by the Minister of the Prime Minister’s Office, were set up by the law with different duties: the **Information Office** (*Információs Hivatal*), the **Constitution Protection Office** (*Alkotmányvédelmi Hivatal*), the **Military National Security Service** (*Katonai Nemzetbiztonsági Szolgálat*) and the **Special Service for National Security** (*Nemzetbiztonsági Szakszolgálat*). According to the law the **Counter Terrorism Centre** (*Terrorelhárítási Központ*), a separate part of the Hungarian police is also allowed to use secret surveillance methods for non-criminal investigatory purposes. Secret surveillance performed by the National Security Services is regulated by **Act CXXV of 1995 on the National Security Services**.<sup>1</sup> Powers of the Counter Terrorism Centre are regulated by **Act XXXIV of 1994 on the Police**,<sup>2</sup> however concerning its surveillance activity not relating to criminal investigations, the Police Act refers to the Act on the National Security Services, therefore non-criminal investigatory surveillance by the Counter Terrorism Centre is also regulated by the same Act.
- [3]. In Hungary, whether secret information gathering is subject to **external authorisation**, depends on the means of surveillance. External authorisation means that the permission of an other state organ (the judge designated by the president of the Budapest Metropolitan Court (*Fővárosi Törvényszék*), or the Minister of Justice) is needed for carrying out such an information gathering, a decision of the institution that carries out this activity is not sufficient. Data inspection or disclosure orders do not need such permission, and the law lists some methods of secret information gathering that are expressly not subject to external authorisation, and others that are. If the surveillance method is subject to external authorisation, a **judicial warrant** is required for certain forms of secret surveillance relating mainly to criminal investigation (the same types that require an authorisation of a minister in case of other purposes, see in paragraph [7] point b), and surveillance for other purposes (for national security purposes) performed by the National Security Services or the Counter Terrorism Centre shall be authorised by the **Minister of Justice** (*igazságügyi miniszter*). The so-called exceptional authorisation can only be applied in exceptional cases: the general directors of the National Security Services may authorise covert information gathering activities no longer than the external authoriser’s decision (according to the provisions of the external authorisation detailed in paragraph [9] for maximum 72 hours), provided that the external authorisation of intelligence information gathering would imply such delay that it would obviously be contrary to interest of the effective operation of the relevant national security service. Nonetheless the general directors of the National Security Services need to submit a motion for external authorisation in this case simultaneously with issuing their own authorisation. Intelligence information gathering based on exceptional authorisation can be ordered only once in the same case unless a new fact representing a direct threat to national security is revealed.<sup>3</sup>

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<sup>1</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*).

<sup>2</sup> Hungary, Act XXXIV of 1994 on the Police (*A Rendőrségről szóló 1994. évi XXXIV. törvény*).

<sup>3</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 59.

- [4]. In order to fulfil the duties defined by the law, intelligence authorities process personal data, including sensitive data. They obtain information i) through the voluntary or compulsory supply of data by the party concerned, ii) from open sources, iii) from data disclosure by data management agencies and iv) by gathering intelligence information. In the context of their data processing, the authorities have to use a mean of information management which restricts the individual rights of the person concerned the least and still enables the security service to achieve its objective. Persons under national security check are obliged to submit their data required for the national security check.<sup>4</sup>
- [5]. The authorities may use data exclusively for executing the task that serves as the legal basis of ordering their acquisition. The agencies may not use the data for other purposes, with two exemptions: if the data points towards a criminal act liable to prosecution, or if they substantiate another obligation to inform national security service, and the party receiving the data would be to obtain them by itself.<sup>5</sup> In order to fulfil their duties, the National Security Services may request data from and supply data one to another. The Police (*Rendőrség*), the National Tax and Customs Administration of Hungary (*Nemzeti Adó és Vámhivatal*), the courts, the prosecutor's office and penal institutions are authorised to request data from the National Security Services for the fulfilment of their specific task defined by the law which they need to indicate in the request.<sup>6</sup>
- [6]. **Data inspection or disclosure orders:** In order to execute their tasks, in the absence of a statutory provision to the contrary, the National Security Services and the Counter Terrorism Centre may request data from any data management system (inspect data in their original context or either ask for transferring data to them) – they have to specify the objective of the request – and they may inspect the systems and the documents upon which the register is based. Data requests need to be fulfilled also when the requested data are fragmented or incomplete. Data transfer has to be documented by both the sending and the receiving body<sup>7</sup>. The National Security Services and the Counter Terrorism Centre may request or use data originating from the registers processed by state agencies, institutes of finance, insurance companies and organisations responsible for telecommunication free of charge. Other data management agencies may reclaim the costs incurred in connection with the data requests.<sup>8</sup> According to the Act on National Security Services, the data management agency disclosing data to the National Security Services and the Counter Terrorism Centre or allowing them to inspect data must not inform the person concerned or any other person or organisation of this fact, or of the relevant contents or measures.<sup>9</sup> The head of a data management agency or institution that has no official power (e.g.

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<sup>4</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 39.

<sup>5</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 43.

<sup>6</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 44.

<sup>7</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 40 (1), Hungary, Act XXXIV of 1994 on the Police (*A Rendőrségről szóló 1994. évi XXXIV. törvény*) Article 7/E (3).

<sup>8</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 40.

<sup>9</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 42 (2)–(3).

companies, non-governmental organisations) may lodge a complaint, without suspensory effect, to the competent Minister against the data inspection or disclosure order.<sup>10</sup>

[7]. **Intelligence information gathering:** In order to fulfil their duties (with some exceptions,<sup>11</sup> for details see Annex 1-A), the National Security Services and the Counter Terrorism Centre may gather intelligence information. Special secret surveillance instruments and methods of intelligence information gathering need to be used exclusively if the data is needed for the fulfilment of the duties of the relevant authorities defined by the Act, and cannot be obtained by any other manner.<sup>12</sup> Data of safety certificates, documents issued during the supervision and management of encryption activity may be kept for 10 years starting from the end of their term of validity; data created during the fulfilment of national security control and protection functions may be retained for 20 years starting from the termination of the position/office concerned. All personal data collected under the scopes of responsibility not specified in the previous sentence may be retained for 70 years starting from the termination of data collection.<sup>13</sup> There are two types of intelligence information gathering (both types could be undertaken in the form of large scale surveillance as well):

a) The National Security Services may request information, gather information while concealing its national security character, establish a covert relationship with a private individual, create and use information systems promoting information gathering, set traps provided that this cause no injury or health damage, prepare and use cover documents to protect their own staff and other persons collaborating with them, and to conceal the national security aspect of the activity, create/maintain a cover institution, keep under surveillance persons affected by their tasks, premises, buildings and other objects, terrain and route sections and vehicles which can be connected to them, and record their observations by technical devices, with the exception of the cases described below, wiretap conversations and record their observations with technical devices and gather information from communications systems and other data storage devices. These **intelligence information gathering** methods are **not subject to external authorisation**.<sup>14</sup>

b) Other forms of intelligence **information gathering are subject to external authorisation**. These are: searching residences in secret and recording observations with technical devices; observing and recording the happenings within the residence with the help of technical devices; unsealing letters and other postal items, inspecting their contents and recording them with technical devices; learning communication through a public telephone line or some other telecommunication service transmitting communication and recording the relevant observations by technical devices; learning, recording and using of data transferred or stored on IT devices or system.<sup>15</sup> Telephone or internet service providers have an obligation to store traffic data and make it available to national intelligence authorities.<sup>16</sup>

[8]. **A motion for obtaining authorisation for intelligence information gathering** needs to be submitted by the general director of the relevant authority. The motion shall include the location of the intelligence information gathering, the name or “group of the person(s) concerned” (“*az érintettek körét*”) and/or available data suitable for identification, the description of the intelligence information gathering and

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<sup>10</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 42 (2)–(3).

<sup>11</sup> See Annex 1A, 4th column for the details.

<sup>12</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 53.

<sup>13</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 50 (2).

<sup>14</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 54.

<sup>15</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 56.

<sup>16</sup> See above, in paragraph 6 on data inspection or disclosure orders.

the justification of its necessity, initial and closing date of the activity, specified in days. In the event of the submission of a motion for an exceptional authorisation, the justification of the fact that in the given case, it is imperative for the effective operation of the national security service, also needs to be included.<sup>17</sup> The term “group of person(s) concerned” refers to a group of people. As the warrants and the authorisation documentation are considered as classified data, there is no information available with regards to the scope of the activities in this sense, and the law does not specify any restrictions on the number of persons that might fall under the “group of person(s) concerned”.

- [9]. The Minister of Justice (and in the cases of criminal investigation and other exceptional cases, the judge designated by the president of the Budapest Metropolitan Court) shall adopt a decision within 72 hours starting from the submission of the motion. In this decision the motion has to be sustained or rejected in case of an unfounded motion. This decision is not subject to appeal, it means that the authority that submitted the motion has no legal remedy against the decision.<sup>18</sup> The data subject has no right to be informed about the decision, as the Minister of Justice (or the judge) must not inform the party concerned of his proceedings or of the fact of intelligence information gathering, as it is legally prohibited.<sup>19</sup> Such a notice could, in a given case, make the work of the national security services impossible, and would gravely endanger the proper and lawful functioning of the state.
- [10]. Intelligence information gathering can be authorised for a maximum of 90 days per occasion. However, this deadline may be extended in justified cases, on the basis of the motion of the general director, by another 90 days.<sup>20</sup> The law does not restrict the occasions of such extensions. Intelligence information gathering subject to external authorisation shall be terminated promptly if it has achieved its objective, if no result can be expected if it is continued, or if it is unlawful in any respect.<sup>21</sup> Personal data managed by the National Security Services needs to be deleted immediately if the management of the data is obviously unnecessary.<sup>22</sup> Internal procedural and authorisation rules of covert information gathering are approved by the minister in charge of directing the respective national security service: Minister of Prime Minister's Office (*Miniszterelnökséget vezető miniszter*) for the Information Office, Minister of Interior for the Constitution Protection Office, the Special Service for National Security, and the Minister of Defence (*honvédelmi miniszter*) for the Military National Security Service.<sup>23</sup> The Minister of Interior is also responsible for the internal procedural and authorisation rules of the Counter Terrorism Centre, which is a separate part of the Hungarian police, but is also allowed to use secret surveillance methods for non-criminal investigatory purposes. These rules are not available to the public. Though the internal rules are not available to the public, the legal dispositions are the same as those of the Act on the national security services, and the cases when the CTC is authorised to use them are exhaustively defined.

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<sup>17</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 57.

<sup>18</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 58 (3).

<sup>19</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 58 (6).

<sup>20</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 58 (4).

<sup>21</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 60 (1).

<sup>22</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 50 (2) e).

<sup>23</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 10 (1), 11 (1) h).

- [11]. The parliamentary oversight over the authorisation procedure of the Minister of Justice is conducted by the Parliamentary Committee for National Security (hereinafter referred as: National Security Committee) (*Országgyűlés Nemzetbiztonsági Bizottsága*).<sup>24</sup> The **government controls** the National Civil Security Services through the appointed minister (detailed above), while the National Military Security Services shall be controlled through the Minister of Defence.<sup>25</sup> The competent minister shall **investigate complaints** pertaining to the activities of the National Security Services and inform the complainant of the outcome of the investigation and of the relevant measures within 30 days. This deadline may be extended once by another 30 days.<sup>26</sup> Parliament provides **parliamentary control** of the National Security Services with the participation of its National Security Committee (and in the case of the Military National Security Service, in co-operation with the Committee for Defence and Law Enforcement, although it is the National Security Committee that has the main responsibility for the parliamentary control over the Military National Service's classified activities). The Chairman of the National Security Committee shall always be a member of the parliamentary opposition, i.e. a member of Parliament who belongs to the opposition fractions.<sup>27</sup>
- [12]. National Security Services are not excluded from the scope of the general data protection act, Act CXII of 2011.<sup>28</sup> Therefore data protection remedies and redress mechanisms are applicable. However, the Act on National Security Services states that in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request to disclose data processed by the National Security Services or included in the data forwarding records; or to delete his/her personal data or to learn data of public interest managed by the National Security Services. When the National Security Services process personal data, they should be regarded as data controllers. In the event of any infringement of his or her rights, the data subject may **initiate a court action** against the controller or the investigation of the **National Authority for Data Protection and Freedom of Information** (*Nemzeti Adatvédelmi és Információszabadság Hatóság*) can be initiated, alleging an infringement relating to his or her personal data. The **Commissioner for Fundamental Rights** (*alapvető jogok biztosa*) has also powers investigating complaints related to secret surveillance.
- [13]. A special **judicial remedy** is accessible when personal data is classified. The person concerned is entitled to access his personal data with national classification on the basis of the access licence issued by the information classifier and without personal security clearance certificate. Should the clearance be refused, the person concerned may contact the Municipal Administrative and Labour Court (*Fővárosi Közigazgatási és Munkaügyi Bíróság*). If the Court approves the application, the classifier shall issue access licence.<sup>29</sup>
- [14]. In an **on-going case against Hungary before the European Court of Human Rights** the petitioners allege that the power to collect intelligence information upon citizens based on a simple ministerial authorisation but without a court warrant violates their rights under Article 8 of the ECHR.<sup>30</sup> See case *Szabó and Vissy v. Hungary*, Application no. 37138/14, communicated on 12 June 2014.

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<sup>24</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 14.

<sup>25</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 10 (1).

<sup>26</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 11 (5).

<sup>27</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*), Article 14 (1).

<sup>28</sup> Hungary, Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*).

<sup>29</sup> Hungary, Act CLV of 2009 on the Protection of Classified Information (*A minősített adatok védelméről szóló 2009. évi CLV. törvény*), Article 11.

<sup>30</sup> European Convention on Human Rights (ECHR) Article 8.

# Annex 1 – Legal Framework relating to mass surveillance

## A- Details on legal basis providing for mass surveillance

| Name and type of the mass surveillance-related law   | A definition of the categories of individuals liable to be subjected to such surveillance  | Nature of circumstances which may give rise to surveillance  | List purposes for which surveillance can be carried out   | Previous approval / need for a warrant   | List key steps to be followed in the course of surveillance | Time limits, geographical scope and other limits of mass surveillance as provided for by the law  | Is the law allowing for mass surveillance in another country (EU MS or third countries)? |
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| Act CXXV of 1995 on the National Security Services ( <i>A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény</i> )<br>(Act of Parliament) | Any person that is affected by the tasks of one of the National Security Services: <sup>31</sup> “keep under surveillance persons affected by their tasks” | The National Security Services may gather intelligence information in order to fulfil their duties described under Articles 4-9 of the Act <sup>32</sup> (some tasks are excluded, see next column: List of purposes). They may use the special instruments and methods of | The purposes of surveillance under this Act are primarily national security purposes, and criminal investigation.<br><br>The general purposes of the functioning of the national security services are to secure the sovereignty of Hungary and to protect its legal order. According to the Article 53 (1) of the Act, <sup>34</sup> the fulfilment of the following tasks of the National Security Services may be the purpose of the surveillance:<br><b>1. The Information Office shall</b><br>1.1 obtain, analyse, evaluate, and forward information on foreign countries, or of | A) Some forms of surveillance are not subject to external authorisation.<br><br>In order to execute their tasks, in the absence of a statutory provision to the contrary, the National Security Services may request data from any data management system and they may inspect the systems and the documents upon which the register is based. <sup>39</sup><br><br>The intelligence information gathering | No regulation on such steps are in the Act.                 | The intelligence information gathering shall be authorised for a maximum of 90 days per occasion. This deadline may be extended in justified cases, on the basis of the relevant motion of the general directors, by another 90 days. <sup>42</sup> | No special provision or prohibition on this.   |

<sup>31</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 54 (1) h).

<sup>32</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Articles 4–9.

<sup>34</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 53 (1).

<sup>39</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 40 (1).

<sup>42</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 58 (4).

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|  |  | <p>intelligence information gathering exclusively, if the data needed for the fulfilment of the functions defined in the Act cannot be obtained by any other means.<sup>33</sup></p> | <p>foreign origin, required for government decisions that may be used in the interest of the security of the nation, and shall pursue activities serving the furtherance of the interests of Hungary</p> <p>1.2. detect foreign secret service endeavours and activities that violate or threaten the independence, political, economic or other important interests of Hungary;</p> <p>1.3. gather information on organised crime abroad threatening national security, in particular on terrorist organisations, illegal drug and arms trafficking, as well as on the illegal international proliferation of weapons of mass destruction and the components thereof, and the materials and tools required for their production;</p> <p>1.4. detect any foreign intentions and activities aimed at threatening the economic and financial security of the nation;</p> <p>1.5. participate in the detection and prevention of the illegal trafficking in internationally controlled products and technologies;</p> | <p>that are not subject to external authorisation are:</p> <p>a) request for information;</p> <p>b) gather information while concealing its national security character;</p> <p>c) establish a covert relationship with a private individual;</p> <p>d) create and use information systems promoting information gathering;</p> <p>e) set traps, provided that these cause no injury or health damage;</p> <p>f) prepare and use cover documents to protect their own staff and physical persons collaborating with them, and to conceal the national security aspect of the activity;</p> <p>g) create/maintain a cover institution;</p> <p>h) keep under surveillance persons affected by their tasks;</p> |  |  |  |
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<sup>33</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 53.

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|  |  | <p>1.6. provide for the security of Hungarian institutions and facilities abroad that are important with regard to the activities of the Government;</p> <p>1.7. carry out the tasks of national security protection and vetting of individuals falling within its competence; and the task of the operational protection of its premises;</p> <p>1.8. carry out internal security, crime prevention and correct lifestyle audits affecting its own staff members;</p> <p>1.9. carry out audits regarding its own classified procurements.</p> <p>The Information Office <b>may not use</b> the special instruments and methods of intelligence information gathering only when it provides specialist control, official authorisation and supervision of encryption, and produce encryption keys.<sup>35</sup></p> <p><b>2. The Constitution Protection Office shall</b></p> <p>2.1. detect and prevent foreign secret service efforts and acts which violate or threaten the independence, political,</p> | <p>premises, buildings and other objects; terrain and route sections and vehicles which can be connected to them, and record their observations by technical devices;</p> <p>i) with the exception of the cases described under point B) below, wiretap conversations and record their observations with technical devices;</p> <p>j) gather information from communications systems and other data storage devices.</p> <p>B) Other forms of intelligence information gathering are subject to external authorisation.</p> <p>These are:</p> <p>a) search residences in secret and record their observations with technical devices;</p> <p>b) observe and record what is happening on the residence with the</p> |  |  |  |
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<sup>35</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 4., Article 53 (1).

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|  |  | <p>economic, defence or other important interests of Hungary;</p> <p>2.2. detect and prevent covert efforts to alter/disturb the legal order of Hungary by unlawful means;</p> <p>2.3. detect and prevent covert endeavours which threaten the economic, scientific/technical, financial security of Hungary, and illicit trafficking in narcotic drugs and weapons brokerage;</p> <p>2.4. safeguard agencies (institutions) and establishments which are of importance for the activity of the central state power and the administration;</p> <p>2.5. carry out national security protection/control duties with regard to persons assigned to its competence;</p> <p>2.6. perform checks and related activities of persons requesting a permanent residence permit or, furthermore, refugee status or Hungarian citizenship, and — in connection with the protection of state sovereignty and constitutional order — of persons applying for a visa;</p> <p>2.7. detect — until an investigation is ordered — crimes enumerated in the Act;</p> <p>2.8. obtain information on criminal acts enumerated in the Act;</p> | <p>help of technical devices;</p> <p>c) open letters and other postal items, inspect their contents and record them with technical devices;</p> <p>d) learn communication through a public telephone line or some other telecommunication service transmitting said communication and record the relevant observations by technical devices;</p> <p>e) learn, record and use of data transferred or stored on IT devices or system.</p> <p>Intelligence information gathering activities listed in point B) need to be authorised by different authorities depending the national security task performed, i.e.:</p> <p>- a <u>judge</u> designated for this purpose by the President of the Metropolitan Court authorises the activity if carried out during the performance of the</p> |  |  |  |
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|  |  | <p>2.9. take part in investigating, preventing, blocking the illicit trafficking of internationally controlled products and technologies and in controlling their authorised trafficking;</p> <p>2.10. take part in investigating, preventing, and blocking the illicit trafficking of military instruments and services and in controlling their authorised trafficking;</p> <p>2.11. upon the request of the National Security Supervisory Authority, it may carry out industrial security inspections.</p> <p>2.12. carry out classification procedures and audits regarding classified procurements.<sup>36</sup></p> <p><b>3. The Military National Security Service shall (within the limits of its competence)</b></p> <p>3.1. reveal efforts directed against Hungary indicative of offensive intent;</p> <p>3.2. detect the efforts and activities of foreign military secret services that violate/threaten the sovereignty/defence interests of Hungary;</p> <p>3.3. obtain, analyse and forward military policy, defence</p> | <p>national security tasks specified in points 2.2, 2.3., 2.7., 2.8., 3.4., 3.8., 3.1., 3.12. of the previous column;</p> <p>or</p> <p>- the <u>minister responsible for justice</u> affairs authorises all other intelligence information gathering activities listed in pont B) that are carried out during the performance of national security tasks not within the above listed points.<sup>40</sup></p> <p>Exceptional authorisation: The general directors of the National Security Services may authorise the covert information gathering activities listed under point B) themselves until the authorisor's decision at the latest, provided that the external authorisation of intelligence information gathering would imply such delay as would</p> |  |  |  |
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<sup>36</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) Article 5, Article 53 (1).

<sup>40</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) 58 (1)–(2).

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|  |  |  | <p>industrial and military information, of foreign relevance or origin, concerning the military element of security policy necessary for government-level decision-making;</p> <p>3.4. reveal and prevent covert efforts to alter/disturb the legal order of Hungary by unlawful means;</p> <p>3.5. gather information on the efforts and activities endangering the armed forces, and take part in the national security protection, preparation and support of armed forces;</p> <p>3.6. provide the pieces of information required for the strategic/operational planning activity of the General Staff of Defence;</p> <p>3.7. obtain information on the cyber activities and organisations endangering military interests, provide the pieces of information for the planning activity for information security purposes performed by the Ministry of Defence and the General Staff of Defence;</p> <p>3.8. collect information on illicit arms dealing representing a threat to national security and on terrorist organisations</p> | <p>obviously be contrary to interest in the effective operation of the national security service in the given case. The general directors of the National Security Services may submit a motion for external authorisation in this case simultaneously with issuing their own authorisation. Intelligence information gathering based on exceptional authorisation can only be ordered once in one and the same case, unless a new fact representing a direct threat to national security is revealed.<sup>41</sup></p> |  |  |  |
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<sup>41</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 59.

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|  |  | <p>threatening the security of the armed forces, reveal and prevent the efforts pertaining terrorism by foreign powers, persons or organisations at the Ministry of Defence and the Hungarian Army;</p> <p>3.9. take part in detecting and preventing the illicit traffic of internationally controlled products and technologies;</p> <p>3.10. safeguard Hungarian military agencies and establishments (institutions) which are of importance for the activity of the administration;</p> <p>3.11. detect — until an investigation is ordered — crimes enumerated in the Act;</p> <p>3.12. obtain information on criminal acts enumerated in the Act;</p> <p>3.13. it may carry out national security duties related to research, development, manufacturing and trade in defence pursued by the organisations of the ministry headed by the minister responsible for defence and of the Hungarian Army;</p> <p>3.14. . upon the request of the National Security Supervisory Authority, it may carry out industrial security inspections;</p> |  |  |  |  |
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|  |  | <p>3.15. carry out classification procedures and audits regarding classified procurements</p> <p>3.16. fulfil national security protection/control duties with regard to persons assigned to its competence.<sup>37</sup></p> <p><b>4. The Special Service for National Security</b></p> <p>4.1. may provide services, upon written request, within the limits of the relevant legal regulations, with the special instruments and methods of intelligence information gathering and covert data acquisition, in support of organisations authorised to gather intelligence and acquire data covertly under the law;</p> <p>4.2. as required by the organisations authorised under the law, may provide the special technical instruments and materials needed for intelligence gathering and covert data acquisition activities;</p> <p>4.3. may establish special telecommunications connections for users specified by the Government;</p> <p>4.4. may carry out operational defence of its premises and national security audits affecting</p> |  |  |  |  |
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<sup>37</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 6, 53 (1).

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|   |   |  | <p>its own staff members and other persons;</p> <p>4.5. may carry out classification procedures and audits regarding classified procurements.</p> <p>4.6. shall supervise in its administrative authority the protection of security documents</p> <p>4.7. shall provide forensic consultant services</p> <p>The special instruments and methods of intelligence information gathering are practically not applicable when the Special Service for National Security provides official control with regard to the protection of security documents and when it carries out expert activity because of the nature of these tasks. The Special Service for National Security in general may not use the special instruments and methods of intelligence information gathering at its own discretion.<sup>38</sup></p> |  |   |  |  |
| Act XXXIV. of 1994 on the Police (A Rendőrségről szóló) | Any person that is affected by the proceeding underlying the data collection for purposes | The Counter Terrorism Centre (separate part of the Police) is not an investigative | The purposes of surveillance under this Act is primarily criminal investigation and exceptionally (carried out by the Counter Terrorism Centre) national security.  | Generally, information gathering that are subject to external authorisation, and that are not related to crime detection, prevention and investigation shall | No regulation on such steps are in the Act. | The regulation of time limits is identical to the procedure of National Security Services. | No special provision or prohibition on this. |

<sup>38</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 8.

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| <p>1994. évi XXXIV. törvény)<br/>(Act of Parliament)</p> | <p>listed in the 4<sup>th</sup> column.</p> | <p>authority, but as a police organization, does carry out intelligence gathering activities for crime prevention in the course of the fight against terrorism. This activity is not subject of this deliverable.</p> <p>In addition to that, it has other duties that may serve as a basis of secret surveillance.</p> <p>The Act refers<sup>43</sup> to the Act of Act CXXV of 1995. on National Security Services:<sup>44</sup> the Counter Terrorism Centre in relation with some of its</p> | <p>The Counter Terrorism Centre detects and interrupts acts of terrorism, captures armed persons suspicious of having committed a crime, interrupts violent crimes against people, and captures persons that pose a danger for themselves and the public.</p> <p>It continuously analyses and assesses terror threats to Hungary, and coordinates the activities of organs that are competent in prevention and aversion.<sup>47</sup></p> | <p>be authorised by the Minister of Justice.<sup>48</sup></p> <p>The procedure is identical to the procedure of National Security Services.</p> |  |  |  |
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<sup>43</sup> Hungary, Act XXXIV of 1994 on the Police (*A Rendőrségről szóló 1994. évi XXXIV. törvény*), Article 7/E (3).

<sup>44</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*).

<sup>47</sup> Hungary, Act XXXIV of 1994 on the Police (*A Rendőrségről szóló 1994. évi XXXIV. törvény*), Article 7/E (1).

<sup>48</sup> Hungary, Act XXXIV of 1994 on the Police (*A Rendőrségről szóló 1994. évi XXXIV. törvény*), Article 7/E. (3).

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|  |  | duties, which are specifically defined in the law, may carry out secret information gathering according to the Articles 53-60 Act CXXV of 1995, <sup>45</sup> and may request for and process information according to the Articles 38-52 of the same Act. <sup>46</sup> |  |  |  |  |  |
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<sup>45</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Articles 53–60.

<sup>46</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Articles 38–52.

## B- Details on the law providing privacy and data protection safeguards against mass surveillance

| Please, list law(s) providing for the protection of privacy and data protection against unlawful surveillance   | List specific privacy and data protection safeguards put in place by this law(s)  | Indicate whether rules on protection of privacy and data protection apply: only to nationals or also to EU citizens and/or third country nationals               | Indicate whether rules on protection of privacy and data protection apply: only inside the country, or also outside (including differentiation if EU or outside EU) |
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| Fundamental right to private and family life, home, communications and good reputation and the right to the protection of personal data <sup>49</sup>   | <p>The Fundamental Law declares these rights as fundamental rights. In consequence of this status of these rights, the general conditions of restricting a fundamental rights have to be applied. The rules relating to fundamental rights and obligations shall be laid down in Acts of Parliament. A fundamental right may only be restricted in order to allow the exercise of another fundamental right or to protect a constitutional value, to the extent that is absolutely necessary, proportionately to the objective pursued, and respecting the essential content of such fundamental right.</p> <p>According to the Fundamental Law, an independent authority set up by a cardinal Act shall supervise the enforcement of the right to the protection of personal data.</p> | Any person.  | Inside the country.   |
| Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information ( <i>2011. évi CXII törvény az információs önrendelkezési jogról és az információszabadságról</i> ) | <ul style="list-style-type: none"> <li>• right to informational self-determination;</li> <li>• rights of data subjects: the data subject may request from the data controller: information on his personal data being processed, the rectification of his personal data, and the erasure or blocking of his personal data, save where processing is rendered mandatory.</li> </ul> <p>These rights of data subjects may be restricted by law in order to safeguard the external and internal security of the State, such as defence, national security, the prevention and prosecution of criminal offences, the safety of penal institutions, to protect the economic and financial interests of central and local government, safeguard the important economic and financial</p>      | The Act applies to all data processing activities undertaken in Hungary relating to the data of natural persons – regardless of their nationality. <sup>51</sup> | The Act applies to all data processing activities undertaken in Hungary.  |

<sup>49</sup> Hungary, Fundamental Law of Hungary (Magyarország Alaptörvénye) Article VI.

<sup>51</sup> Hungary, Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*), Article 2. (1)

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|   | <p>interests of the European Union, guard against disciplinary and ethical breaches in regulated professions, prevent and detect breaches of obligation related to labour law and occupational safety - including in all cases control and supervision - and to protect data subjects or the rights and freedoms of others.</p> <p>According to the Act on National Security Services Article 48,<sup>50</sup> in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services.</p> |                      |                     |
| Information to the Data Protection Authority <sup>52</sup>      | The National Security Services keeps the records of requests on information, rectification, erasure etc. received from parties concerned, and they shall inform the National Authority for Data Protection and Freedom of Information of such requests, the manner of their evaluation and reasons for refusal on an annual basis.  | No such restriction. | Inside the country. |
| Access to personal data in classified information <sup>53</sup> | The person concerned is entitled to access her/his personal data with national classification on the basis of the access licence issued by the information classifier and without personal security clearance certificate. Where the access clearance is refused, the person concerned may contact the Municipal Administrative and Labour Court ( <i>Fővárosi Közigazgatási és Munkaügyi Bíróság</i> ). Should the Court approve the application, the classifier shall issue the access clearance.   | No such restriction. | Inside the country. |
| Deletion of unused data <sup>54</sup>                           | After finishing the secret surveillance with special means, information that were recorded but of no interest for the purposes of surveillance, and data of persons that are not affected by the case, shall be destroyed within 8 days.  | No such restriction. | Inside the country. |
| Administrative proceeding for the control of secrets            | In its resolution adopted in conclusion of administrative proceedings for the control of secrets, the Authority - in the event of any infringement of the regulations pertaining to the classification of certain national security information - shall call upon the classifier to modify - in accordance with the   |                      |                     |

<sup>50</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) Article 48.

<sup>52</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) Article 48 (2).

<sup>53</sup> Hungary, Act CLV of 2009 on the Protection of Classified Data (*A minősített adatok védelméről szóló 2009. évi CLV. törvény*), Article 11.

<sup>54</sup> Hungary, Act XXXIV of 1994 on the Police (*A Rendőrségről szóló 1994. évi XXXIV. törvény*), Article 73 (3).

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|  | law - the level or term of classification of information classified at the national level, or to have it declassified. <sup>55</sup> |  |  |
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<sup>55</sup> Hungary, Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*), Article 63. (1)

## Annex 2 – Oversight bodies and mechanisms<sup>56</sup>

| Name of the body/mechanism   | Type of the body/mechanism   | Legal basis   | Type of oversight                                       | Staff  | Powers                  |
|--|--|---|---|--|-------------------------|
| Commissioner for Fundamental Rights<br>( <i>alapvető jogok biztosa</i> ) | The independent parliamentary commissioner (ombudsperson) is elected by the Parliament | Act CXI of 2011 on the Commissioner for Fundamental Rights, Article 18. <sup>57</sup><br><br>(Article 23 contains some restrictions on the related investigatory powers: In the course of his or her inquiry affecting the National Security Services, the Commissioner for Fundamental Rights may not inspect<br><br>a) registers for the identification of individuals cooperating with the National Security Services, | <i>ex post</i> (on the grounds of citizens' complaints) | The Commissioner is elected by the two thirds majority if members of Parliament for a six-year term upon the proposal of the President of the Republic. <sup>59</sup><br><br>Total staff: 150<br><br>Managing staff: 27<br><br>Staff working on professional matters: 77<br><br>Supporting staff: 46 <sup>60</sup> | Issuing recommendations |

<sup>56</sup> For a more detailed on the parliamentary oversight see the case study on Hungary in Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, Civil Liberties, Justice and Home Affairs: *Parliamentary Oversight of Security and Intelligence Agencies in the European Union*. The European Parliament. p 230-240.

<sup>57</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*), Article 18.

<sup>59</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*) Article 4–6.

<sup>60</sup> Hungary, data provided for the purposes of the present report by the Office of the Commissioner for Fundamental Rights (e-mail, dated 09/07/2014).

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|  |  | <p>b) documents containing the technical data of devices and methods used by the National Security Services for intelligence information gathering, or documents making it possible to identify the persons using them,</p> <p>c) documents relating to encryption activities and encoding,</p> <p>d) security documents relating to the installations and staff of the National Security Services,</p> <p>e) documents related to security documents and technological control,</p> <p>f) documents access to which would make possible the identification of the</p> |  |  |  |
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|  |  | <p>source of the information, or</p> <p>g) documents access to which would infringe the obligations undertaken by the National Security Services towards foreign partner services.</p> <p>In the course of his or her inquiry affecting the police, the Commissioner for Fundamental Rights may not inspect</p> <p>a) international cooperation agreements and plans concluded with police organs of other countries or with international organisations, joint measures taken in the course of international cooperation, or data and information originating from the cooperation and put at the disposal of an organ of the police, if the</p> |  |  |  |
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|  |  | <p>contracting parties have requested their protection as classified data,</p> <p>b) such classified agreements related to international relations as contain specific commitments for the detection and prevention of international organised crime (including drug trafficking, money laundering and acts of terrorism),</p> <p>c) any document containing data specified in subsection (2) relating to, originating from or pertaining to the cooperation of the National Security Services with the police,</p> <p>d) safeguarding plans of installations and persons guarded by the police, documents and descriptions pertaining to</p> |  |  |  |
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|  |  | <p>security equipment, guards and posts,</p> <p>e) documents enabling the identification of a private person covertly cooperating with the police, except when that person has suffered the infringement of rights and he himself or she herself requests the inquiry thereof,</p> <p>f) documents containing technical data relating to the functioning and operation of equipment and methods used by the police for intelligence information gathering or documents enabling the identification of persons using such equipment and methods,</p> <p>g) documents of the police relating to encoded</p> |  |  |  |
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|  |  | <p>communications of the police or documents containing aggregate data relating to frequency records for government purposes,</p> <p>h) personal data of witnesses, if the closed processing thereof has been ordered on the basis of the Act on Criminal Procedure, or</p> <p>i) such cooperation agreements concluded with the Hungarian Defence Forces or the National Security Services as are classified 'Top secret' data by the parties to the agreement.<sup>58)</sup></p> |  |  |  |
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<sup>58</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*), Article 23 (2)-(3).

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| Parliamentary Committee on National Security<br>( <i>Országgyűlés Nemzetbiztonsági Bizottsága</i> ) | parliamentary | Act CXXV of 1995 on the National Security Services, Article 14. <sup>61</sup>                        | <i>ex ante, ex post</i> and during the surveillance, ongoing and regularly repeated | Members of the Committee are MPs, elected by the Parliament.<br><br>The Committee has 7 members, 1 of them is elected to be the chair, 1 vice-chair.<br><br>Supporting staff: 2<br><br>Delegated advisors: 3 <sup>62</sup>  | Requesting information<br><br>Investigating complaints<br><br>Carrying out fact-finding investigations<br><br>Calling on the minister to take the necessary actions and initiating the Examination of responsibility <sup>63</sup> |
| Minister of Prime Minister's Office<br>( <i>miniszterelnökséget vezető miniszter</i> )              | government    | Act CXXV of 1995 on the National Security Services, Article 11(2)g) and Article 11(5). <sup>64</sup> | regular control, <i>ex post</i> investigation of complaints                         | The minister is appointed by the President of the Republic after the proposal made by the Prime Minister.<br><br>Full staff dealing with the oversight of security services: 6 (2 managing staff + 3 professional + 1 supporting staff) <sup>65</sup>   | Managerial power<br><br>Issuing instructions for the Information Office,   |
| Minister of Interior<br>( <i>belügyminiszter</i> )  | government    | Act CXXV of 1995 on the National Security Services, Article 11(2)g) and Article 11(5). <sup>66</sup> | regular control, <i>ex post</i> investigation of complaints                         | The minister is appointed by the President of the Republic after the proposal made by the Prime Minister.<br><br>The minister is supported by the Control Department ( <i>Ellenőrzési Főosztály</i> ) of the Ministry. The activity of this Department is controlled by the National Security Coordination Department. Because of the change of the organisational structure of the Ministry, the Ministry could not answer the | Managerial power<br><br>Issuing instructions for the Constitution Protection Office and the Specialized National Security Service.   |

<sup>61</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 14.

<sup>62</sup> Hungary, data provided for the purposes of the present report by the Chair of the Parliamentary Committee on National Security (e-mail dated 02/07/2014).

<sup>63</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 14(4).

<sup>64</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 11(2)g), Article 11(5).

<sup>65</sup> Hungary, data provided for the purposes of the present report by the Prime Minister's Office (letter dated 11/08/2014).

<sup>66</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 11(2)g), Article 11(5).

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|  |            |  |   | questions on the number of staff of these two departments. <sup>67</sup>   |  |
| Minister of Defence<br>( <i>honvédelmi miniszter</i> ) | government | Act CXXV of 1995 on the National Security Services, Article 11(2)g) and Article 11(5). <sup>68</sup> | regular control, <i>ex post</i> investigation of complaints | The minister is appointed by the President of the Republic after the proposal made by the Prime Minister.<br><br>Several departments of the Ministry supports the Minister in this task, together with other tasks, therefore it would be impossible to determine the number of staff. <sup>69</sup> | Managerial power<br><br>Issuing instructions for the Military National Security Service        |
| Minister of Justice<br>( <i>igazságügyminiszter</i> )  | government | Act CXXV of 1995 on the National Security Services, Article 58(2). <sup>70</sup>                     | <i>ex ante</i> authorization                                | The minister is appointed by the President of the Republic after the proposal made by the Prime Minister.<br><br>Full staff helping the minister relating this work: 7 (4 managing +3 supporting) <sup>71</sup>  | Giving authorisation for intelligence information gathering by all National Security Services. |
| Metropolitan Court<br>( <i>Fővárosi Törvényszék</i> )  | judicial   | Act CXXV of 1995 on the National Security Services, Article 58(1) <sup>72</sup>                      | <i>ex ante</i> authorisation                                | The judges (in general) are appointed by the President of the Republic. 6 judges are appointed by the President of the Metropolitan Court for this task. Altogether 9 employee supports their work. <sup>73</sup>  | Giving authorisation for intelligence information gathering                                    |

<sup>67</sup> Hungary, data provided for the purposes of the present report by the Ministry of Interior (e-mail dated 12/08/2014).

<sup>68</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 11(2)g), Article 11(5).

<sup>69</sup> Hungary, data provided for the purposes of the present report by the Ministry of Defence (e-mail dated 17/07/2014).

<sup>70</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 58(2).

<sup>71</sup> Hungary, data provided for the purposes of the present report by the Ministry of Justice (e-mail dated 14/07/2014).

<sup>72</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 58(1).

<sup>73</sup> Hungary, data provided for the purposes of the present report by the President of the Metropolitan Court (letter dated 04/08/2014).

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| <p>National Authority for Data Protection and Freedom of Information (<i>Nemzeti Adatvédelmi és Információszabadság Hatóság</i>)</p> | <p>independent (the Authority replaced the independent Data Protection Commissioner in 2012, see Judgment in Case C-288/12 of Court of Justice of the European Union; on the 16<sup>th</sup> October 2014 the European Commission ended the procedure since Hungary has properly implemented the judgement)</p> | <p>Act CXII of 2011 on Informational Self-determination and on Freedom of Information, Article 38.<sup>74</sup></p> | <p>1. <i>ex post</i> investigation (ombudsman type procedure – for request)<br/> 2. data protection administrative procedure (ex officio)<br/> 3. administrative proceedings for the control of secret (ex officio)<br/> 4. initiate court action in connection with any infringement concerning public information and information of public interest;<br/> 5. maintain the data protection register.</p> | <p>The President of the Authority is appointed for a 9-year term by the President of the Republic after the proposal made by the prime minister.<br/><br/> Full staff of the Authority is 62 (managing staff 12, professional staff 40, supporting staff 11). Out of this, 4 members are dealing with supervision of surveillance (1 manager, 3 professional, 1 supporting staff member).<sup>75</sup></p> | <p>Issuing recommendations<br/><br/> Issuing legally binding decisions:<sup>76</sup></p> <ol style="list-style-type: none"> <li>1. order the rectification of any personal data that is deemed inaccurate;</li> <li>2. order the blocking, erasure or destruction of personal data processed unlawfully;</li> <li>3. prohibit the unlawful handling or processing of personal data;</li> <li>4. prohibit the transfrontier transmission or disclosure of personal data;</li> <li>5. order the information of the data subject, if it was refused by the data controller unlawfully; and</li> <li>6. impose a financial penalty.</li> </ol> |
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<sup>74</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 38.

<sup>75</sup> Hungary, data provided for the purposes of the present report by the President of the National Authority for Data Protection and Freedom of Information (e-mail dated 31/07/2014).

<sup>76</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 61.

## Annex 3 – Remedies

| Act CXXV of 1995 on the National Security Services |                          |  |   |   |
|--|--------------------------|--|---|---|
| Stages of surveillance process                     | Is the subject informed? | Does the subject have a right of access to the data collected on him/her?  | List remedies available to an individual concerned  | Legal basis for using the available remedies  |
| Collection*  | No                       | Theoretically yes, but practically no. According to the Act on National Security Services Article 48, <sup>77</sup> in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services. | <p>Submit a claim lodged to the Regional Court (judicial body), alleging that the reasoning of denial is not satisfactory.<sup>78</sup></p> <p>Notify the National Authority for Data Protection and Freedom of Information and request an investigation alleging an infringement of his or her rights.<sup>79</sup> The Authority may decide to open ex officio data protection administrative procedure.<sup>80</sup></p> <p>Notify the Commissioner for Fundamental Rights (independent parliamentary commissioner, ombudsperson) and initiate its investigation alleging the infringement of the fundamental right to privacy.<sup>81</sup></p> <p>Complain to the Minister of Prime Minister's Office, the Minister of Interior or to the Minister of Defence (governmental bodies) because of the activities of the National Security Services.</p> | <ul style="list-style-type: none"> <li>• Violation of data protection</li> <li>• Violation of data protection</li> <li>• Violation of the fundamental right to privacy</li> <li>• Unlawful activity</li> <li>• Unlawful activity</li> </ul> |

<sup>77</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 48.

<sup>78</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 22.

<sup>79</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 52.

<sup>80</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 60.

<sup>81</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*) Article 18.

|                  |    |  |  |   |
|------------------|----|--|--|---|
|                  |    |  | If the complainant does not accept the outcome of the investigation of the Minister, he or she may turn to the Parliamentary Committee for National Security. The Committee investigates the complaint only if the one third of the members of the Committee finds the investigation reasonable.   |   |
| <b>Analysis*</b> | No | Theoretically yes, but practically no. According to the Act on National Security Services Article 48, <sup>82</sup> in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services. | <p>Submit a claim lodged to the Regional Court (judicial body), alleging that the reasoning of denial is not satisfactory.<sup>83</sup></p> <p>Notify the National Authority for Data Protection and Freedom of Information and request an investigation alleging an infringement of his or her rights.<sup>84</sup> The Authority may decide to open ex officio data protection administrative procedure.<sup>85</sup></p> <p>Notify the Commissioner for Fundamental Rights (independent parliamentary commissioner, ombudsperson) and initiate its investigation alleging the infringement of the fundamental right to privacy.<sup>86</sup></p> <p>Complain to the Minister of Prime Minister's Office, the Minister of Interior or to the Minister of Defence (governmental bodies) because of the activities of the National Security Services.</p> <p>If the complainant does not accept the outcome of the investigation of the Minister, he or she may turn to the Parliamentary Committee for National Security. The</p> | <ul style="list-style-type: none"> <li>• Violation of data protection</li> <li>• Violation of data protection</li> <li>• Violation of the fundamental right to privacy</li> <li>• Unlawful activity</li> <li>• Unlawful activity</li> </ul> |

<sup>82</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) Article 48.

<sup>83</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 22.

<sup>84</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 52.

<sup>85</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 60.

<sup>86</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*) Article 18.

|                 |    |  |   |   |
|-----------------|----|--|---|---|
|                 |    |  | Committee investigates the complaint only if the one third of the members of the Committee finds the investigation reasonable.  |   |
| <b>Storing*</b> | No | Theoretically yes, but practically no. According to the Act on National Security Services Article 48, <sup>87</sup> in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services. | <p>Submit a claim lodged to the Regional Court (judicial body), alleging that the reasoning of denial is not satisfactory.<sup>88</sup></p> <p>Notify the National Authority for Data Protection and Freedom of Information and request an investigation alleging an infringement of his or her rights.<sup>89</sup> The Authority may decide to open ex officio data protection administrative procedure.<sup>90</sup></p> <p>Notify the Commissioner for Fundamental Rights (independent parliamentary commissioner, ombudsperson) and initiate its investigation alleging the infringement of the fundamental right to privacy.<sup>91</sup></p> <p>Complain to the Minister of Prime Minister's Office, the Minister of Interior or to the Minister of Defence (governmental bodies) because of the activities of the National Security Services.</p> <p>If the complainant does not accept the outcome of the investigation of the Minister, he or she may turn to the Parliamentary Committee for National Security. The Committee investigates the complaint only if the one third of the members of the Committee finds the investigation reasonable.</p> | <ul style="list-style-type: none"> <li>• Violation of data protection</li> <li>• Violation of data protection</li> <li>• Violation of the fundamental right to privacy</li> <li>• Unlawful activity</li> <li>• Unlawful activity</li> </ul> |

<sup>87</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) Article 48.

<sup>88</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 22.

<sup>89</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 52.

<sup>90</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 60.

<sup>91</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*) Article 18.

|                         |    |  |   |   |
|-------------------------|----|--|---|---|
| <b>Destruction</b><br>* | No | <p>Theoretically yes, but practically no. According to the Act on National Security Services Article 48,<sup>92</sup> in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services.</p> | <p>Submit a claim lodged to the Regional Court (judicial body), alleging that the reasoning of denial is not satisfactory.<sup>93</sup></p> <p>Notify the National Authority for Data Protection and Freedom of Information and request an investigation alleging an infringement of his or her rights.<sup>94</sup> The Authority may decide to open ex officio data protection administrative procedure.<sup>95</sup></p> <p>Notify the Commissioner for Fundamental Rights (independent parliamentary commissioner, ombudsperson) and initiate its investigation alleging the infringement of the fundamental right to privacy.<sup>96</sup></p> <p>Complain to the Minister of Prime Minister's Office, the Minister of Interior or to the Minister of Defence (governmental bodies) because of the activities of the National Security Services.</p> <p>If the complainant does not accept the outcome of the investigation of the Minister, he or she may turn to the Parliamentary Committee for National Security. The Committee investigates the complaint only if the one third of the members of the Committee finds the investigation reasonable.</p> | <ul style="list-style-type: none"> <li>• Violation of data protection</li> <li>• Violation of data protection</li> <li>• Violation of the fundamental right to privacy</li> <li>• Unlawful activity</li> <li>• Unlawful activity</li> </ul> |
|-------------------------|----|--|---|---|

<sup>92</sup> Hungary, Act CXXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXXV. törvény*) Article 48.

<sup>93</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 22.

<sup>94</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 52.

<sup>95</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 60.

<sup>96</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*) Article 18.

|  |           |  |  |   |
|--|-----------|--|--|---|
| <p><b>After the whole surveillance process has ended</b></p> | <p>No</p> | <p>Theoretically yes, but practically no. According to the Act on National Security Services Article 48,<sup>97</sup> in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services.</p> | <p>Submit a claim lodged to the Regional Court (judicial body), alleging that the reasoning of denial is not satisfactory.<sup>98</sup></p> <p>Notify the National Authority for Data Protection and Freedom of Information and request an investigation alleging an infringement of his or her rights.<sup>99</sup> The Authority may decide to open ex officio data protection administrative procedure.<sup>100</sup></p> <p>Notify the Commissioner for Fundamental (independent parliamentary commissioner, ombudsperson) and initiate its investigation alleging the infringement of the fundamental right to privacy.<sup>101</sup></p> <p>Complain to the Minister of Prime Minister's Office, the Minister of Interior or to the Minister of Defence (governmental bodies) because of the activities of the National Security Services.</p> <p>If the complainant does not accept the outcome of the investigation of the Minister, he or she may turn to the Parliamentary Committee for National Security. The Committee investigates the complaint only if the one third of the members of the Committee finds the investigation reasonable.</p> | <ul style="list-style-type: none"> <li>• Violation of data protection</li> <li>• Violation of data protection</li> <li>• Violation of the fundamental right to privacy</li> <li>• Unlawful activity</li> <li>• Unlawful activity</li> </ul> |
|--|-----------|--|--|---|

<sup>97</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*) Article 48.

<sup>98</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 22.

<sup>99</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 52.

<sup>100</sup> Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information (*Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*) Article 60.

<sup>101</sup> Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights (*Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény*) Article 18.

## Annex 4 – Surveillance-related case law at national level

|  |  |
|--|--|
| <b>Case title</b>  | 2/2014. (I. 21.) AB határozat – Constitutional Court Decision No. 2/2014.  |
| <b>Decision date</b>   | 14 <sup>th</sup> of January, 2014  |
| <b>Reference details (type and title of court/body; in original language and English [official translation, if available])</b> | Constitutional Court of Hungary ( <i>Alkotmánybíróság</i> )  |
| <b>Key facts of the case (max. 500 chars)</b>  | The Commissioner for Fundamental Rights (CFR) initiated the annulment of the Article 48 (1) of the Act CXXV of 1995 on the National Security Services, <sup>102</sup> that states that in the interest of national security or to protect the rights of others, the general director of the national security service may refuse the request of the party concerned to disclose data managed by the National Security Services or included in the data forwarding records or to delete his/her personal data or to learn data of public interest managed by the National Security Services. According to the CFR, this rule enables to restrict the right to data protection on the mere discretion of the relevant surveillance bodies. |
| <b>Main reasoning/argumentation (max. 500 chars)</b>   | According to the CC, the Act determines the conditions of the denial of such requests, therefore the existence of these conditions may be subject to judicial control. It means that this decision is not made upon the discretion of the relevant general director.   |
| <b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>   | The current practice of the courts interprets Article 48 (1) in a way that the possibility of the denial of requests can be made upon the discretion of the relevant general director. The rule itself is not, but its judicial interpretation is unconstitutional.  |
| <b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>                                   | In its decision, the CC ordered that when applying Article 48 (1) of the Act, the general directors may not deny the request on their discretion, but only if the fulfilment of the request infringed national security interest or others' rights. The CC also stated that the courts shall review the grounding of the reference to the national security interest or others' rights as conditions of the denial of the request.   |

<sup>102</sup> Hungary, Act CXXV of 1995 on the National Security Services (*A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény*).

|  |   |
|--|---|
| <b>Case title</b>  | 32/2013. (XI. 22.) AB határozat – Constitutional Court Decision No. 32/2013 .   |
| <b>Decision date</b>   | 18 <sup>th</sup> of November, 2013  |
| <b>Reference details (type and title of court/body; in original language and English [official translation, if available])</b> | Constitutional Court of Hungary ( <i>Alkotmánybíróság</i> )   |
| <b>Key facts of the case (max. 500 chars)</b>  | In June 2012, two individuals lodged a constitutional complaint with the Constitutional Court asking the body to annul the provision that authorises the recently established Counter Terrorism Centre (CTC) to covertly collect information on the private lives of citizens merely upon the approval of the competent ministry, without possession of a court warrant. The complaint referred to the right of private life of individuals and the right to informational self determination. According to the Constitutional Court this power of the CTC is not in breach of the Fundamental Law of Hungary. <sup>103</sup>   |
| <b>Main reasoning/argumentation (max. 500 chars)</b>   | According to the CC, the authorisation procedure contains the relevant legal guarantees for protecting the relevant fundamental rights, because the Act stipulates that the special instruments and methods of intelligence information gathering may be used exclusively if the data needed for the fulfilment of the functions defined in the Act cannot be obtained in any other manner. The CC also ruled against the complainants regarding the existence of effective external control of surveillance. According to the CC, the powers of the Parliamentary Committee on National Security and the Commissioner for Fundamental Rights mean sufficient safeguards. |
| <b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>   | The authorisation for secret surveillance measures means a severe restriction on fundamental rights, therefore it needs to be counterbalanced by clear procedures and external control mechanisms regulated by an Act of Parliament. But not only the judicial warrant is a sufficient external control mechanism against such a fundamental right restriction. Secret surveillance aiming at national security is related to political decision-making, therefore not the judiciary but the Government is responsible for such decision-making.  |
| <b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>                                   | In its decision, the CC ordered that in order to secure the effectiveness of external control, the minister has to provide a reasoning when giving authorisation for the use of secret surveillance methods.  |

<sup>103</sup> Hungary, Fundamental Law of Hungary (*Magyarország Alaptörvénye*).

|  |  |
|--|--|
| <b>Case title</b>  | ACLU and others v the GCHQ and others  |
| <b>Decision date</b>   | No decision yet  |
| <b>Reference details (type and title of court/body; in original language and English [official translation, if available])</b> | Investigatory Powers Tribunal (The United Kingdom)   |
| <b>Key facts of the case (max. 500 chars)</b>  | The American Civil Liberties Union, Canadian Civil Liberties Association, Egyptian Initiative for Personal Rights, Hungarian Civil Liberties Union, Irish Council for Civil Liberties and the Legal Resources Centre (South Africa) issued a claim in the Investigatory Powers Tribunal (IPT) against GCHQ, the Security Service (MI5) and the Secret Intelligence Service (MI6). The organisations believe that it is likely that the British Intelligence Services have used Tempora to monitor their private communications – either being sent to, received from, transferred via or processed in the UK. This is particularly so given their work on human rights and counter-terrorism issues. |
| <b>Main reasoning/argumentation (max. 500 chars)</b>   | The claim argues that the interference with the NGOs’ communications is a breach of Article 8 (the right to respect for their private and family life) and Article 10 (freedom of expression) of the European Convention on Human Rights. There is no clear legal framework, and the British law permits Tempora’s collection and storage of such vast amounts of communications. And the scale of data being obtained cannot be described as either necessary or proportionate. This breaches Article 14 of the European Convention – because there is far less protection for external communications than there is for communications sent and received within this country.                      |
| <b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>   | Any electronic communications with people outside this country are liable to be swept up and monitored by the British Intelligence Services. The international partners’ claim makes the point that this affects people overseas even when they are not communicating with people in this country – as their emails and messages can be intercepted simply because they pass through the UK.   |
| <b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>                                   | Not decided yet.   |

## Annex 5 – Key stakeholders at national level

| Name of stakeholder   | Type of stakeholder               | Contact details  | Website  |
|---|-----------------------------------|--|--|
| Information Office<br>( <i>Információs Hivatal</i> )  | public authority<br>(government)  | 1539 Budapest, Postafiók: 600<br>+36 1 202 19 94<br>info@ih.gov.hu                       | <a href="http://www.mkih.hu">www.mkih.hu</a>   |
| Constitution Protection Office<br>( <i>Alkotmányvédelmi Hivatal</i> )   | public authority<br>(government)  | 1391 Budapest, 62. Pf. 217.<br>+36 1 485 2300<br>ah@mail.ah.gov.hu                       | <a href="http://ah.gov.hu">http://ah.gov.hu</a>  |
| Military National Security Service<br>( <i>Katonai Nemzetbiztonsági Szolgálat</i> )   | public authority<br>(government)  | 1502 Budapest, Pf. 117.<br>+36 1 386 9344<br>knbsz@knbsz.gov.hu                          | <a href="http://www.kfh.hu">www.kfh.hu</a>   |
| Specialised National Security Service<br>( <i>Nemzetbiztonsági Szakszolgálat</i> )  | public authority<br>(government)  | 1399 Budapest 62. Pf: 710.<br>+36 1 325 7672<br>nbsz@nbsz.gov.hu                         | <a href="http://www.nbsz.gov.hu">www.nbsz.gov.hu</a>   |
| Counter Terrorism Centre<br>( <i>Terrorelhárítási Központ</i> )   | public authority<br>(government)  | 1903 Budapest, Pf.: 314<br>+36 1 265 6200<br>tek@tek.gov.hu                              | <a href="http://tek.gov.hu">http://tek.gov.hu</a>  |
| Ministry of Justice<br>( <i>Igazságügyi Minisztérium</i> )  | public authority<br>(government)  | 1357 Budapest, Pf.: 2.<br>+36 1 795 1000<br>lakossag@im.gov.hu                           | <a href="http://www.kormany.hu/hu/igazsagugyi-miniszterium">www.kormany.hu/hu/igazsagugyi-miniszterium</a>           |
| Ministry of Defence<br>( <i>Honvédelmi Minisztérium</i> )   | public authority<br>(government)  | 1885 Budapest, Pf.: 25.<br>+36 1 474 1111, +36 1 236 5111<br>hmugyfelszolgalat@hm.gov.hu | <a href="http://www.kormany.hu/hu/honvedelmi-miniszterium">www.kormany.hu/hu/honvedelmi-miniszterium</a>             |
| Prime Minister's Office<br>( <i>Miniszterelnökség</i> )   | public authority<br>(government)  | 1357 Budapest, Pf. 6.<br>+36 1 795 5000<br>titkarsag@me.gov.hu                           | <a href="http://www.kormany.hu/hu/miniszterelnokseg">www.kormany.hu/hu/miniszterelnokseg</a>                         |
| Ministry of Interior<br>( <i>Belügyminisztérium</i> )   | public authority<br>(government)  | 1903 Budapest, Pf.: 314.<br>+36 1 441 1000<br>ugyfelszolgalat@bm.gov.hu                  | <a href="http://www.kormany.hu/hu/belugyminiszterium">www.kormany.hu/hu/belugyminiszterium</a>                       |
| Metropolitan Court of Budapest<br>( <i>Fővárosi Törvényszék</i> )   | public authority (court)          | 1055 Budapest Markó u. 27.<br>+36 1 354 6000   | <a href="http://fovarositorvenyszek.birosag.hu">http://fovarositorvenyszek.birosag.hu</a>                            |
| National Authority for Data Protection and<br>Freedom of Information<br>( <i>Nemzeti Adatvédelmi és Információszabadság<br/>Hatóság</i> ) | public authority<br>(independent) | 1530 Budapest, Pf.: 5.<br>+36 1 391 1400<br>ugyfelszolgalat@naih.hu                      | <a href="http://www.naih.hu">www.naih.hu</a>   |
| Parliamentary Committee of National Security<br>( <i>Az Országgyűlés Nemzetbiztonsági Bizottsága</i> )                                    | public authority<br>(parliament)  | 1357 Budapest, Pf.: 2.<br>+36 1 441 5128   | <a href="http://www.parlament.hu/web/nemzetbiztonsagi-bizottsag">www.parlament.hu/web/nemzetbiztonsagi-bizottsag</a> |

|   |  |  |   |
|---|--|--|---|
|   |  | nbb@parlament.hu   |   |
| Commissioner for Fundamental Rights<br>( <i>alapvető jogok biztosa</i> )  | public authority<br>(independent<br>ombudsperson elected by<br>parliament) | 1387 Budapest Pf. 40.<br>+36 1 475 7129<br>panasz@ajbh.hu                | <a href="http://www.ajbh.hu">www.ajbh.hu</a>              |
| National Security Institute of the National<br>University of Public Service<br>( <i>Nemzeti Közszoigálati Egyetem,<br/>Nemzetbiztonsági Intézet</i> ) | academia   | 1441 Budapest, Pf.: 60.<br>+36 (1) 432-9000                              | <a href="http://nbi.uni-nke.hu">http://nbi.uni-nke.hu</a> |
| Hungarian Civil Liberties Union<br>( <i>Társaság a Szabadságjogokért</i> )  | civil society organisation   | 1136 Budapest, Tátra utca 15/b.<br>+36 1 209 0046<br>tasz@tasz.hu        | <a href="http://www.tasz.hu">www.tasz.hu</a>              |
| Eötvös Károly Policy Institute<br>( <i>Eötvös Károly Közpolitikai Intézet</i> )   | civil society organisation   | 1088 Budapest, Szentkirályi utca 11.<br>+36 1 212 4800<br>info@ekint.org | <a href="http://www.ekint.org">www.ekint.org</a>          |

## Annex 6 – Indicative bibliography

### 1. Government/ministries/public authorities in charge of surveillance

Hungary, Csóka, F. (ed.), (2012) *Szakszolgálat Magyarországon, avagy tanulmányok a hírszerzés és titkos adatgyűjtés világából*, Budapest, Nemzetbiztonsági Szakszolgálat

### 2. National human rights institutions, ombudsperson institutions, national data protection authorities and other national non-judicial bodies/authorities monitoring or supervising implementation of human rights with a particular interest in surveillance

Hungary, Alapvető Jogok Biztosá (2013) *Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2014*, Budapest, Alapvető Jogok Biztosának Hivatala

Hungary, Alapvető Jogok Biztosá (2014) *Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2013*, Budapest, Alapvető Jogok Biztosának Hivatala

Hungary, Nemzeti Adatvédelmi és Információszabadság Hatóság (2013) *A Nemzeti Adatvédelmi és Információszabadság Hatóság beszámolója a 2012. évi tevékenységéről*, Budapest, NAIH

Hungary, Nemzeti Adatvédelmi és Információszabadság Hatóság (2014) *A Nemzeti Adatvédelmi és Információszabadság Hatóság beszámolója a 2013. évi tevékenységéről*, Budapest, NAIH

### 3. Non-governmental organisations (NGOs)

Hungary, Eötvös Károly Intézet, Társaság a Szabadságjogokért, Transparency International (2010) 'Nincs hatékony kontroll a nemzetbiztonság felett', available at: [www.ekint.org/ekint/ekint.news.page?nodeid=318](http://www.ekint.org/ekint/ekint.news.page?nodeid=318)

Hungary, Hidvégi, F. (2013) 'Titkos megfigyelések fokozódó átpolitizálása' *Ataszjelenti.blog.hu*, Társaság a Szabadságjogokért, available at: [http://ataszjelenti.blog.hu/2013/04/09/titkos\\_megfigyelesek\\_fokozodo\\_atpolitizalasa](http://ataszjelenti.blog.hu/2013/04/09/titkos_megfigyelesek_fokozodo_atpolitizalasa)

Hungary, Magyar, P. (2010) 'Egységben rajong a titkokért a Fidesz és az MSZP', available at:

[www.index.hu/belfold/2010/05/19/egysegben\\_rajong\\_a\\_titkokert\\_a\\_fidesz\\_es\\_az\\_mszp](http://www.index.hu/belfold/2010/05/19/egysegben_rajong_a_titkokert_a_fidesz_es_az_mszp)

Hungary, Majtényi, L., Szabó, M. D., Vissy, B. (2012) 'Mit keres a Terrorrelhárítási Központ a paplan alatt? (Egy alkotmánybírói beadvány értelme)' *Élet és Irodalom*, 2012. június 29.

### 4. Academic and research institutes, think tanks, investigative media report.

Hungary, Bejczy, A. (2006) 'A titkos információgyűjtés célhoz kötöttsége', *Rendészeti Szemle*, 2006/7–8, pp. 126–146.

Hungary, Bejczy, A. (2008) 'Szigorúbb gumiszabály?', *Rendészeti Szemle*, 2008/10, pp. 60–87.

Hungary, Bejczy, A. (2010) 'A titkos információgyűjtés és a titkos adatszerzés hazai szabályozásának útvesztőjében', *Belügyi Szemle*, 2010/11, pp. 44–58.

Hungary, Czine, Á. (2006) 'A titkos információgyűjtés néhány jogértelmezési kérdése', *Fundamentum*, 2006/1, pp. 119–125.

Hungary, Hajas, G. (1999) 'A nemzetbiztonsági szolgálatok szabályozása', *Belügyi Szemle*, 1999/4–5, pp. 99–111.

Hungary, Hollósi, Gy. (1995) 'Vélemény a nemzetbiztonsági törvény tervezetéről', *Belügyi Szemle*, 1995/5, pp. 15–21.

Hungary, Kadlót, E. (2010) 'A nemzetbiztonsági szolgálatok' in: Jóri, A., Kerekes, Zs., Hegedűs B. (eds.), *Adatvédelem és információszabadság a gyakorlatban*, Budapest, Complex, pp. 98–105.

Hungary, Kedves, I. (2006) *A különleges titkosszolgálati eszközök alkalmazásának története különös tekintettel a 20. századra*, Budapest, Rejtjel Kiadó.

Hungary, Kenedli, T. (2008) 'A hírszerző és a bűnüldöző szervek közös információgazdálkodási lehetőségei', *Rendészeti Szemle*, 2008/10, pp. 28–45.

Majtényi, L., Szabó, M. D., Vissy, B., (2012) 'Terrorrelhárítás lélelktől lélelig', *BUKSZ*, 2012. ősz-tél, pp. 230–235.

Hungary, Nyíri, S. (1997) *A titkos információgyűjtés jogi alapjai*, Budapest, BM Kiadó

Hungary, Nyíri, S (2000) *A titkos adatszerzés*, Budapest, BM Kiadó

Rácz, L. (2010) 'A titkos információszerzés néhány elméleti kérdése', *Szakmai Szemle* 2010/3, pp. 5–32.

## Reference list

|  |  |   |
|--|--|---|
| Fundamental Law of Hungary   | <i>Magyarország Alaptörvénye</i>   | Hungary, Fundamental Law of Hungary ( <i>Magyarország Alaptörvénye</i> )  |
| Act XXXIV of 1994 on the Police  | <i>A Rendőrségről szóló 1994. évi XXXIV. törvény</i>   | Hungary, Act XXXIV of 1994 on the Police<br>( <i>A Rendőrségről szóló 1994. évi XXXIV. törvény</i> )  |
| Act CXXV of 1995 on the National Security Services                                 | <i>A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény</i>                                 | Hungary, Act CXXV of 1995 on the National Security Services<br>( <i>A nemzetbiztonsági szolgálatokról szóló 1995. évi CXXV. törvény</i> )   |
| Act CLV of 2009 on the Protection of Qualified Data                                | <i>A minősített adatok védelméről szóló 2009. évi CLV. törvény</i>                                     | Hungary, Act CLV of 2009 on the Protection of Qualified Data<br>( <i>A minősített adatok védelméről szóló 2009. évi CLV. törvény</i> )  |
| Act CXII of 2011 on Informational Self-Determination and on Freedom of Information | <i>Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény</i> | Hungary, Act CXII of 2011 on Informational Self-Determination and on Freedom of Information<br>( <i>Az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény</i> ) |
| Act CXI of 2011 on the Commissioner for Fundamental Rights                         | <i>Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény</i>                                       | Hungary, Act CXI of 2011 on the Commissioner for Fundamental Rights<br>( <i>Az alapvető jogok biztosáról szóló 2011. évi CXI. törvény</i> )   |