



Fredrik Bergman
Centrum för rättvisa
Box 2215
SE - 103 15 STOCKHOLM

GRAND CHAMBER

ECHR-LE21.10R
AM/VS/ech

7 March 2019

BY POST AND E-MAIL (info@centrumforrattvisa.se)

Application no. 35252/08
Centrum för rättvisa v. Sweden

Dear Sir,

Further to my letter of 18 February 2019, I now inform you that the judge rapporteur in this case has decided that the parties' written submissions should deal with the questions annexed to this letter.

I remind you that the parties have until **3 May 2019** to make their written submissions on the merits of the case.

Yours faithfully,

p.p.



Enc. Questions to the parties

Questions to the parties

1. Has there been an interference with the applicant's rights under Article 8 § 1 of the Convention on account of the "bulk interception" of communications in Sweden?

In particular, the parties are invited to clarify at which stage(s) the interception and processing of information is capable of affecting the rights of concrete individuals or organisations; and to describe the manner in which the individuals or organisations are affected at the stage(s) identified.

The Government are further invited to provide examples of queries and/or selectors used and to inform the Court about the number (and duration) of interception permissions issued annually.

In addition, the Government are invited to clarify the use which is made of retained material in general and retained communications data in particular. Does material have to be "selected for examination" by a physical person in order to provide intelligence, or could it simply be subject to complex and comprehensive analysis (by computer)? Could material that is not on an index permitting it to be "selected for examination" by a physical person nevertheless be interrogated, aggregated and subjected to complex analysis by computer in order to provide intelligence? Is a difference made between content and communications data in this regard? On what basis is this retained content and communications data eventually discarded?

2. In the event that there has been an interference, was it in accordance with the law and necessary in terms of Article 8 § 2 of the Convention? In particular,

a) To what extent should the standards developed in the Court's case-law on secret measures of surveillance – and, in particular, the interception of communications – apply to the regime permitting the bulk interception and processing of communications and related communications data?

b) In the event that Article 8 § 2 requires the existence of certain safeguards to avoid abuses of power, to what extent do these safeguards have to be made public? Can they exist without being made public if they are subject to independent oversight?

c) Does Article 8 § 2 also require supervision and review of the impugned activities by an independent body and, if so, what level of independence from the Government is needed? In view of the specific type of analysis in bulk interception, at what stage(s) would it be appropriate for supervision to take place? What type of supervision and review, if any, is required when the surveillance is first ordered, while it is being carried out, and after it has been terminated? Should there be a body entrusted with oversight powers which is capable of rendering legally binding decisions? If so, at what stage(s)?

d) Should the same principles apply to both content and related communications data?

e) As regards individual requests for review after the impugned intelligence has been carried out, does the system applicable in Sweden meet the relevant Convention requirements?

3. In that connection, to what extent and in what manner is the legal regime applicable in Sweden to communicating intercepted data to other parties capable of interfering with the rights of concrete individuals or organisations under Article 8 § 1 of the Convention? Insofar as it is capable of doing

so, is that regime in accordance with the law and necessary within the meaning of Article 8 § 2? To what extent do the standards developed in the Court's case-law on secret measures of surveillance – and, in particular, the interception of communications – apply to this regime?