



Media relations
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Media Release

regarding judgment A-6444/2020 of 19 November 2025

Bulk interception of cross-border communication is not compatible with fundamental rights

Cross-border communication is surveilled by the Federal Intelligence Service through radio or cable monitoring. In its ruling, the Federal Administrative Court holds that radio or cable monitoring – in its current form – is not in conformity with the Federal Constitution and the ECHR. The legislative branch is given the opportunity to remedy the shortcomings as part of the ongoing revision of the Federal Intelligence Act.

Through the means of radio and cable monitoring, the Federal Intelligence Service (FIS) obtains information about events outside Switzerland that are of importance for security policy. For this purpose, cross-border communication is gathered and analysed on the basis of search parameters. In case of purely domestic communication – i.e., if both the transmitter and the recipient are located in Switzerland –, the recorded signals may not be processed. The association *Digitale Gesellschaft* and several private individuals, including journalists and a lawyer, claimed a violation of their fundamental rights and requested that the FIS refrained from radio and cable monitoring. The Federal Supreme Court held in its judgment [1C 377/2019](#) that broad radio and data streams were captured by means of radio and cable monitoring (so-called bulk interception or mass surveillance). According to the Federal Supreme Court, there was a risk that data of the complaining parties could be processed. Hence, the complainants had standing to request that radio and cable monitoring should be discontinued. The Federal Supreme Court delegated the task of examining whether the system of radio and cable monitoring is compatible with the Federal Constitution and the European Convention of Human Rights (ECHR) to the Federal Administrative Court (FAC).

Requirements for mass surveillance of cross-border communication

According to the case-law of the European Court of Human Rights, member states are generally entitled to introduce a system of bulk interception. However, radio and cable monitoring may interfere with the fundamental rights of complainants. This interference may be justified by the interest of national security. In [Big Brother Watch v. the United Kingdom](#), the Grand Chamber of the European Court of Human Rights required that the process of bulk interception be subject to continuous guarantees in order to protect against abuse. The Court laid special emphasis on the prior and independent approval of bulk interception, the continuous supervision by an independent authority, and the existence of an

effective remedy for subsequent review of surveillance measures. The FAC has examined the current system of radio and cable monitoring by the FIS based on these criteria.

Safeguards for the protection against abuse are not sufficient

In its ruling, the FAC states that the circumstances under which communication may be surveilled as part of radio and cable monitoring are sufficiently foreseeable. Furthermore, radio and cable monitoring is subject to prior authorisation by an independent court. However, the applicable law does neither guarantee that the FIS will only process relevant and accurate data, nor does it contain guarantees to protect journalistic sources and other privileged communication, such as between attorneys and their clients. Sufficiently effective supervision of information gathering is also not guaranteed, and affected individuals, such as the complainants, are not provided with sufficiently effective legal remedy for subsequent review. The current system of radio and cable monitoring by the FIS is therefore not in conformity with the Federal Constitution and the ECHR. The interference with fundamental and conventional rights of the complainants is not justified.

Given this result, the radio and cable monitoring as a whole should be discontinued. However, the Federal Act on the Intelligence Service is currently in revision. Against this background and in view of the significance of radio and cable monitoring for the gathering of intelligence information, the legislator must be given the opportunity to remedy the shortcomings as part of the ongoing revision process. A period of five years seems appropriate for this purpose. If compliance with the Federal Constitution and the ECHR has not been achieved within this period, radio and cable monitoring must be discontinued.

This judgment may be appealed to the Federal Supreme Court.

Media contact

Rocco R. Maglio

Spokesperson

+41 58 465 29 86

medien@bvger.admin.ch

About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 395 employees (334 FTE) and its 78 judges (70 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 6,500 judgments every year.