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Government must review Regulation of Investigatory Powers Act

European Court of Human Rights decision calls for clarity and accountability for UK surveillance laws

(London 1 July 2008) In a significant judgment today, the European Court of Human Rights found that UK surveillance laws had lacked the necessary clarity and accountability to prevent abuses of power when used to intercept cross-border communications. The ECHR agreed with human rights group Liberty that surveillance law and practice must be tighter to protect individual privacy rights.

Alex Gask, Libertys Legal Officer who brought the case, said:
The Court of Human Rights has rightly found that greater accessibility and accountability is required to ensure respect for the privacy of thousands of innocent people. While secret surveillance is a valuable tool, the mechanisms for intercepting our telephone calls and e-mails should be as open and accountable as possible, and should ensure proportionate use of very wide powers.

The ECHR referred to German authorities as an example of best practice in surveillance techniques, in part, because they ensured that monitoring of communications is suited to each investigation and required bi-annual reviews of the need to store the materials.

Gareth Crossman, Libertys Policy Director and leading expert on privacy rights, said:

This judgment highlights the wider problem of excessive surveillance undermining public trust. Whether its fishing expeditions of our overseas phone calls or local councils using targeted surveillance to check on school catchment areas, we need a prompt review of the broad powers in RIPA.

In the judgment, the ECHR states that it, does not consider that the domestic law at the relevant time indicated with sufficient clarity, so as to provide adequate protection against abuse of power, the scope or manner of exercise of the very wide discretion conferred on the State to intercept and examine external communications. In particular, it did not, as required by the Courts case-law, set out in a form accessible to the public any indication of the procedure to be followed for selecting for examination, sharing, storing and destroying intercepted material. The interference with the applicants rights under Article 8 (the right to privacy) was not, therefore, in accordance with the law.

Mark Kelly, Director of the Irish Council for Civil Liberties, added that:

The Court has found that the United Kingdoms relatively sophisticated rules on data interception have failed to prevent unlawful interference with privacy rights. This has clear implications for many other Council of Europe member states, including Ireland. Our lax data interception regime will require a thorough overhaul in order to ensure that it meets the standards required by the European Court of Human Rights under Article 8.

Contact: Jen Corlew on 0207 378 3656 or 0797 3 831 128

Notes to Editors

1. The judgment by the European Court of Human Rights in Case of Liberty and Others v The United Kingdom (application no. 582443/00) was handed down on 1 July 2008. The case was brought by Liberty (the National Council for Civil Liberties), the Irish Council for Civil Liberties and British Irish Rights Watch.

2. The Court recognized that the 1985 Interception of Communications Act failed to provide the accessibility and accountability needed to ensure respect for the privacy of thousands of innocent people. Since the case was brought, the 1985 Act was replaced with the Regulation of Investigatory Powers Act 2000.

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