

AUTHORITY REQUESTS FOR ACCESS TO ELECTRONIC COMMUNICATION - country data

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AUTHORITY REQUESTS FOR ACCESS TO ELECTRONIC COMMUNICATION

Most countries have laws that on certain conditions require telecom operators to assist the authorities in intercepting communication (lawful interception) or obtaining historical data from the network (communication data)¹. This document contains a general note on the relevant laws and regulations regarding authority access to electronic communication in each of the markets where Telenor Group is present. Where disclosure is possible it also includes the number of requests for communication data and lawful interception that we received from law enforcement agencies and other relevant authorities for the year 2014.

WHY ARE WE REPORTING?

Respect for privacy and freedom of expression is important for how we run our business. Our commitment to human rights is long standing and embedded in our top governing document – the Code of Conduct – as well as our Supplier Conduct Principles. Specific operational requirements are included in various policies, including Group-wide mandatory requirements for handling authority requests for access to our networks and customer data in 2014.

Telenor Group comprises subsidiary companies in 13 countries across Europe and Asia. In each of these countries there are laws that, in certain circumstances, require telecom operators to disclose information about their customers to government authorities. Although the authorities have a legitimate need to protect national security and public safety, and to prevent or investigate criminal activities, we recognise that the application of these legal powers in some situations may challenge the privacy and freedom of expression of affected individuals.

Our efforts to minimise potentially negative impacts such requests may have on privacy and freedom of expression (e.g. possible misuse), include systematic monitoring of incoming requests. We also initiate dialogue with relevant authorities, the industry and other stakeholders regarding these matters.

Over the last few years there has been an important global public debate about the scope, necessity and legitimacy of the legal powers that government authorities use to access the communications of private individuals. Questions have also arisen as to the role that telecommunications network and service providers play in relation to such access. In the light of this, we have decided to contribute to transparency in this area, by publishing this overview. Where we can disclose such information, it includes the number of requests that our subsidiaries in each country receive from their respective authorities.

We believe it is the governments, and not the telecommunications operators that should have the main responsibility to inform the public of the extent of such requests.

There are several reasons for this. First of all, the same governments that impose such laws should also make all reasonable efforts to ensure concerned citizens that these powers are used with due care. Being transparent is important in this respect. Furthermore, no operator has the complete overview of the authority requests throughout each country, as such requests are issued to all operators present. A complete overview would require that all operators issue similar reports. Moreover, operators are likely to use different approaches when reporting the same kind of information, making comparison difficult. Some may for example count the actual number of requests received from the authorities, whereas others may count the total number of users, devices, etc., affected by the request. And when the authorities issue the same request to several operators, each operator would include this request in its statistics, risking an artificially inflated number.

It is also important to note that in a few markets authorities have direct access to operators' networks and/or communication data, which means that the operator would not have visibility on the number of lawful interceptions or extraction of communication data taking place.

Some governments do publish reports regarding their use of legal powers to access communication information on a regular basis. We encourage all governments to adopt this practice. In the meantime, we view this document as one of our contributions to increased transparency.

WHAT ARE WE REPORTING?

In this document, we focus on two categories of authority requests that account for the majority of requests we receive: communication data and lawful interception. Our disclosure indicates the number of requests received from authorities by our businesses in each country.

Although these numbers provide a sense of scale, there are several reasons why these do not provide an accurate picture of the requests' actual privacy impact. One reason for this is that a single request, depending on the legal framework in each country, may cover an unspecified number of individuals, or communications services or devices used by these individuals. On the other side, one individual can in many circumstances be subject to several simultaneous or consecutive requests related to the same investigation.

As the above mentioned indicates, there are many variables to consider in order to give a picture that is as accurate as possible of the request's actual privacy impact. To a large extent these variables will also be incommensurable from one

¹ For a more comprehensive description of communication data and lawful interception, please see 'Authority requests for access to electronic communication – legal overview'

country to another. We do however believe that measuring the number of requests received from authorities, with all its flaws, is the most sensible measurement available, without making it too complex.

LIMITATIONS ON WHAT WE REPORT

The disclosure in this report is based on what we can legally report. In some of the countries we operate, it is prohibited to disclose statistics on authority requests or even to disclose that such authority requests are made at all. In some countries where the law on such disclosure is unclear, the relevant authorities have instructed us not to publish any such information. We have reason to believe that ignoring these instructions could lead to serious sanctions, and in some instances could even pose a threat to our employees.

In some countries we are legally obliged to allow permanent direct access to our network with no control or visibility over the interception activities that authorities carry out.

For those countries where we are unable to report communication data and/or lawful interception, we have indicated this by inserting a dash (-) in the relevant box in the reporting form.

For further information on how we approach authority requests please see www.telenor.com/privacy



Grameenphone (Bangladesh)



General note on laws/regulations

Bangladesh has specific laws relating to interception of communications and acquisition of communications data. A single, widely drafted, provision outlined in the Bangladesh Telecommunications Regulatory Act, 2001 enables these monitoring activities to be undertaken on the grounds of national security and public order by the designated law enforcement agencies, security and intelligence agencies etc. Bound by the legal stipulations, the mobile network

operators (MNOs) are required to comply with these lawful interception requests channelized under a defined process to the dedicated interface within the organization. The records of sharing such information are maintained as part of an in-built control mechanism of the process. Although the law provides for little or no regulatory oversight over the exercise of such interception powers of government, however, scope of general judicial oversight is available.

Communication data

-

Lawful interception

-



Telenor Bulgaria



General note on laws/regulations

In Bulgaria, specified state security, intelligence and law enforcement authorities have powers to intercept communications. Interception and other powers are subject to a process of court approval set out in the Law on Special Intelligence Means and the Electronic Communications Act. These powers can be authorized to investigate serious

crimes, as well as certain national security- related offences. Currently all lawful methods of acquiring communications data are subject to court approval process. There is overarching political oversight that includes a dedicated parliamentary committee in the legislature.

Communication data

37,849

Lawful interception

-



Telenor Denmark



General note on laws/regulations

Under Danish Law, there is a general rule that the police may only order interceptions or acquire communications data from communication service providers (CSPs) having first obtained a court order to do so. An interception can only be authorised in relation to the most serious alleged offences. CSPs are obliged to cooperate with such orders. The Ministry of Justice has statutory authority to investigate any non-

compliance by the police with the court approval process. Police may use radio frequencies without authorization in order to disturb and disrupt radio and telecommunications as part of interceptions undertaken pursuant to § 791c of the Administration of Justice regarding interception of communications, observation and data reading.

Communication data

1,345

Lawful interception

2,079



Telenor Hungary



General note on laws/regulations

In Hungary, interceptions of communications can only be requested by law enforcement authorities (e.g. police, public prosecutor, intelligence agencies) using a process for handling classified data. Requests may be applied only on the basis of a court order, or in case of certain intelligence agencies, an authorization from the Minister of Justice, which can be sought retrospectively in urgent cases. The interceptions are performed by a dedicated authority, the

Special Services for National Security (SSNS). Therefore the SSNS is responsible for the verification of the court order or the authorization from the Minister of Justice. Further, besides law enforcement authorities, a range of other public authorities may request subscriber or traffic data directly from the communication service providers (CSPs), which is also regulated by the law and restricted in terms of the period and type of data.

Communication data
42,757

Lawful interception
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Uninor (India)



General note on laws/regulations

Under Indian law, communications may only be intercepted following a specific order authorized by a senior government official, and only for certain reasons. In emergencies interceptions may start without authorization, but it must be sought. Lawful access to communications data may take

place on a number of grounds. There is no judicial oversight over interception orders or access to communications data, although there is a formal bi-monthly review of interception orders to check their compliance with the legislation.

Communication data
-

Lawful interception
-



Digi (Malaysia)



General note on laws/regulations

The Malaysian Criminal Procedure Code gives the police extensive powers to intercept any communications (and the right to acquire communication data) in relation to the investigation of any criminal offence, offences against the state or those relating to terrorism. Authorisation from a

public prosecutor is generally required. There are also many other laws in Malaysia that provide for interception and data acquisition powers in relation to specific activities, such as computer hacking and money laundering.

Communication data
-

Lawful interception
-



Telenor Montenegro



General note on laws/regulations

In Montenegro, interception of electronic communications can be undertaken directly by the courts, the police for criminal investigations, or the Agency for National Security (ANS) on national security grounds. There is a well-defined process of judicial approval. Only the Supreme Court has authority to allow the intelligence agencies to undertake an interception on national security grounds. The police can obtain customer communications data by submitting a court order (in cases of police activity related to finding or

rescuing people which are not conducted for the purpose of criminal investigation or prosecution, network operators and service providers may, even without a court order, disclose the retained communication data to the police). As well as the role the judiciary plays in interceptions, there are constitutional rights in relation to confidentiality of communications, and regulatory oversight of the police and the ANS.

Communication data
1,112

Lawful interception
-



Telenor Myanmar



General note on laws/regulations

The Telecommunications Law 2013 gives the government of Myanmar broad powers of interception on a number of broadly stated grounds, including when it is in the public interest, and when the security of the State or the rule of law is adversely affected. The Law also appears to provide

for acquisition of communications data powers, though these are less clearly stated. There is no judicial approval or oversight of the use of these powers. There is a form of government approval required, but the Law does not state what this entails.

Historical data
9*

Lawful interception
-

*Note that the figures are for the period October–December 2014



Telenor Norway



General note on laws/regulations

In Norway, only the Police or the Police Security Service (PST) can carry out interception of communications to investigate serious crimes or national security related offences. Generally they may only do so under a court order issued by a district court, but interceptions without a court

order are allowed in a few tightly defined scenarios. Access to communications data is governed by similar rules. There is regulatory oversight of the activities of the police, and parliamentary oversight over the PST and other intelligence agencies.

Communication data
6,315

Lawful interception
1,431



Telenor Pakistan



General note on laws/regulations

The Pakistan Telecommunications (Re-Organisation) Act 1996 gives the Federal Government of Pakistan powers to authorise any person to intercept communications for national security reasons or for the investigation of any crime. These powers also extend to the acquisition of communications data without any requirement of prior

judicial approval for obtaining/intercepting such data. However for the terrorism-related offences listed in the Investigation for Fair Trial Act, 2013 (IFTA 2013), there is a process given therein, requiring Court's approval for interception and acquisition of communications data relating to such terrorism-related offences.

Communication data

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Lawful interception

-



Telenor Serbia



General note on laws/regulations

Serbian law allows the police and certain state security agencies to intercept communications for the purposes of criminal investigations or in relation to national security offences. Court approval from the High Court is required, with interception under the secret intelligence-related laws needing approval by higher courts. A court order is also

required for disclosure of communications data. In some emergency scenarios, the security services can intercept without a court order, but this must be evaluated by the appropriate court within 24 hours. There is a degree of regulatory and political oversight over all these activities.

Communication data

4,599

Lawful interception

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Telenor Sweden



General note on laws/regulations

Interception by government agencies of domestic communications in Sweden can only be carried out under a court order, and only in relation to serious crimes, which include espionage and terrorism. Government agencies

have discretion to access specified types of communications data in certain scenarios without a court order, notably the police. Domestic interceptions are subject to a process of judicial approval and supervision.

Communication data

6,602

Lawful interception

2,827



dtac (Thailand)



General note on laws/regulations

Following a coup d'etat on 22 May 2014, Thailand is currently governed by the interim Government under the peacekeeping power of the National Council for Peace and Order (junta) under the interim Constitution. A state of martial law which had been imposed since the beginning of the coup was lifted on 1 April 2015 and immediately replaced by NCPO Order No. 3/2558 (3/2015) re: Maintaining Public

Order and National Security issued under Section 44 of the Interim Constitution for an indefinite period of time. This order empowers officials to gather, acquire and examine any data. Ordinarily the law broadly empowers officials to gather data for examination. In addition, some new legislation in this area is currently under consideration.

Communication data

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Lawful interception

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