



## Forthcoming Grand Chamber cases *Big Brother Watch and Others v. the United Kingdom* and *Centrum för rättvisa v. Sweden*

The European Court of Human Rights will be adjudicating the **Grand Chamber** cases of **Big Brother Watch and Others v. the United Kingdom** (applications nos. 58170/13, 62322/14 and 24960/15) and **Centrum för rättvisa v. Sweden** (35252/08) at a public hearing on 25 May 2021 at 11 a.m. in the Human Rights Building, Strasbourg.

The cases concern complaints, in the former, about three different surveillance regimes: (1) the bulk interception of communications; (2) with the receipt of intelligence from foreign governments and/or intelligence agencies; and (3) the obtaining of communications data from communications service providers; and in the latter about legislation permitting the bulk interception of electronic signals in Sweden for foreign-intelligence purposes.

### Principal facts and complaints

The applicants in *Big Brother Watch and Others* are organisations, individuals that campaign on civil liberties issues or journalists. Centrum för rättvisa is a Swedish non-profit foundation that was established in 2002 and is based in Stockholm.

In *Big Brother Watch and Others* the applications were lodged after Edward Snowden, a former US National Security Agency (NSA) contractor, revealed the existence of surveillance and intelligence sharing programmes operated by the intelligence services of the United States and the United Kingdom. The applicants believed that the nature of their activities meant that their electronic communications and/or communications data were likely to have been intercepted or obtained by the UK intelligence services.

Relying on Article 8 (right to respect for private and family life and correspondence), they complain, in particular, of the regimes for the bulk interception of communications, the receipt of intelligence from foreign governments and/or intelligence agencies and for the acquisition of data from communications service providers. The second and third applications also raise complaints under Article 10 of the European Convention (freedom of expression) related to the applicants' work, respectively, as journalists and non-governmental organisations.

In *Centrum för rättvisa* the applicant foundation believes, in particular, that there is a risk that its communications have been or will be intercepted and examined by way of signals intelligence. Signals intelligence can be defined as intercepting, processing, analysing and reporting intelligence from electronic signals. In Sweden the bulk collection of electronic signals is one form of foreign intelligence and is regulated by the Signals Intelligence Act. This legislation authorises the National Defence Radio Establishment (FRA), a Government agency organised under the Ministry of the Defence, to conduct signals intelligence through bulk interception.

For all signals intelligence, the FRA must apply for a permit to the Foreign Intelligence Court, which is regulated by the Foreign Intelligence Court Act and composed of a permanent judge and other members appointed on four-year terms. The court's activities are in practice covered by complete secrecy.

The Foreign Intelligence Court is overseen by the Foreign Intelligence Inspectorate and the Data Protection Authority.

Relying on Article 8 (right to respect for private and family life, the home and correspondence), the applicant foundation alleges that Swedish legislation and practice in the field of signals intelligence has violated and continues to violate its rights. It has not brought any domestic proceedings, arguing under Article 13 (right to an effective remedy) of the European Convention that there is no effective remedy in Sweden for its Convention complaints.

## Procedure

The *Big Brother Watch and Others* applications were lodged with the European Court of Human Rights on 4 September 2013, 11 September 2014 and 20 May 2015. In a judgment dated 13 September 2018, the Chamber found by five votes to two, that the bulk interception regime violated Article 8 as there was insufficient oversight both of the selection of Internet bearers for interception and the filtering, search and selection of intercepted communications for examination, and the safeguards governing the selection of “related communications data” for examination were inadequate. On 12 December 2018 the applicants requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 4 February 2019 the panel of the Grand Chamber [accepted](#) that request.

The *Centrum för rättvisa* application was lodged with the European Court of Human Rights on 14 July 2008. In a judgment dated 19 June 2018, the Chamber found unanimously that there had been no violation of Article 8. On 19 September 2018 the applicant organisation requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 4 February 2019 the panel of the Grand Chamber [accepted](#) that request.

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