

Response of the German authorities to an alert of 8 July 2016 on the *Platform for the Promotion of the Protection of Journalism and the Safety of Journalists*

“Contrary to the statements made in the article by Reporters without Borders, the draft law on Federal Intelligence Service surveillance of communications between non-German citizens outside of Germany, adopted by the Federal Government on 28 June 2016, does not extend the powers to surveil foreign journalists. The purpose of the draft law is rather to establish a clear legal framework for Federal Intelligence Service surveillance of communications between non-German citizens outside of Germany. The draft law enshrines a series of new protective provisions and places communications between EU citizens and the institutions and organisations of the EU and its member states under special protection for the first time. Moreover, it explicitly prohibits economic espionage and establishes a special body to monitor Federal Intelligence Service surveillance of communications between non-German citizens outside of Germany. The protection of the freedom of the press and freedom of opinion is – as has been and continues to be the case – guaranteed by the principle of proportionality, which is enshrined in the constitution, and to which the Federal Intelligence Service is bound in all of its activities. This also applies to the surveillance of communications between non-German citizens outside of Germany and is not dependent on the nationality of the person in question. There is therefore no reason to fear that this draft law endangers the freedom of the press and freedom of opinion.”

Re:

“New Proposed Law Set to Increase the Power to Surveil Foreign Journalists, Update: 11 Jul 2016; Date of entry Country Category Source of threat Submitted by Alert level, 08 Jul 2016 Germany E. Other acts having chilling effects on media freedom State RSF, AEJ, EFJ/IFJ, Index Level 2

A prospective draft was signed off by the Government on 28 June 2016 and will be read in Parliament on 8 July 2016. The new proposed legislation could allow the foreign intelligence service Bundesnachrichtendienst (BND) to increase their power to surveil foreign journalists abroad.

According to the German branch of Reporters without Borders (Reporter ohne Grenzen), the law makes protection from surveillance dependent upon nationality. German citizens would not be subject to surveillance, EU citizens could be to some extent, but citizens from other countries would be at risk whenever Germany’s “capacity to act” needs to be safeguarded or if “insights into foreign and security policy may be of relevance”.

Managing director of Reporter ohne Grenzen, Christian Mihr, said “up until now, each BND law contains an explicit exception for journalists from surveillance regulations. The new BND law, however, does not include any such provisions.”

<http://www.coe.int/en/web/media-freedom>

