[IE] Review of the law on accessing phone records of journalists

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On 19 January 2016, the Minister for Justice and Equality announced the establishment of an independent review of the law on access to the phone records of journalists. The review will be carried out by a former Chief Justice, the retired Mr. Justice John Murray, who is also a former judge of the Court of Justice of the European Union (CJEU).

The purpose of the Murray Review will be to "examine the legislative framework in respect of access by statutory bodies to communications data of journalists held by communications service providers." This will include taking account of "the principle of protection of journalistic sources, the need for statutory bodies with investigative and/or prosecution powers to have access to data in order to prevent and detect serious crime, and current best international practice in this area."

The Review was prompted by a story in newspaper The Irish Times on 14 January 2016, reporting that a policing authority (the Garda Síochána Ombudsman Commission - Gsoc) had accessed the mobile phone records of two journalists. The newspaper reported that Gsoc had been investigating leaks to the media by police officers, and informed three officers that a study of journalists' phone records "had established they had been in contact with the reporters." Under the Garda Síochána Act 2005, it is an offence for police officers to disclose certain information to third parties, including to the media. Gsoc has refused to confirm or deny that journalists' phone records have been accessed, but published an op-ed in The Irish Times on 23 January 2016, describing the scope of some of its legislative powers.

The law on government access to communication data is contained in the Communications (Retention of Data) Act 2011 (see IRIS 2009-8/102), while the laws on government surveillance and wiretapping are contained in the Criminal Justice (Surveillance) Act 2009 and the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993. Notably, none of these laws contain provisions relating to the right to protection of journalistic sources, which the Irish Supreme Court recognised in 2009 (Mahon Tribunal v. Keen).

The Minister has stated that the Murray Review is expected to be completed by April 2016.

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Department of Justice and Equality, Statement by the Minister for Justice and Equality in relation to access to telephone records, 19 January 2016

http://www.justice.ie/en/JELR/Pages/PR16000020

Supreme Court of Ireland Decision Mahon Tribunal v. Keena [2009] IESC 78

http://www.bailii.org/ie/cases/IESC/2009/S78.html

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