

Promo-LEX: Adopting the “Big Brother” Law in its current form would seriously affect the right to privacy and freedom of speech

Yesterday, 14 February 2017, a public debate on Draft Law nr. 161 for Amending and Completing Some Legislative Acts (known as the “Big Brother” Law) took place. The event was a platform for discussion among civil society, the authorities, and the private sector, all of whom had the opportunity to express their opinions on the Draft Law, which would expand and strengthen law enforcement agencies’ control over the exchange of information. Finally, the conclusions of the debate were made public at a press conference, in which Vadim Vieru (Promo-LEX), Nadejda Hriptievschi (CRJM), Ana Chirița (the Moldovan Association of Information and Communications Technology Companies), Alina Radu (Ziarul de Gardă) and Veaceslav Bădărău (the Center for Combating Cybernetic Crimes of the IGP of the MAI) participated. The video is [here](#).

The discussions began with the presentation of a [legal opinion](#) prepared by the International Center for Non-for-Profit Law at the request of the Promo-LEX Association. The ICNL is concerned about the fact that the Draft Law contains provisions that could have a “chilling effect” on the freedom of expression and the right to privacy. As drafted, **the Amendments violate international standards guaranteeing these fundamental rights**. Key concerns include the following: vague grounds for blocking websites, lack of judicial oversight for certain investigative techniques and no protection for

whistleblowers and journalists. See the text of the ICNL's opinion [here](#).

The conclusions of the [CRJM's opinion](#) and [the joint opinion of the Venice Commission and the Council of Europe](#) on Draft Law no. 161, which warn about a series of problematic provisions in the draft that should be modified or removed, were also discussed during the debate. In particular, the opinions warned about the extremely broad rights given to law enforcement agencies to intercept and investigate computer data, too many different types of infractions, and provisions for general surveillance measures, which are inefficient, cost money, and unjustifiably infringe on the right to a private life. The private sector, represented by several different service providers, found the language in many provisions of the draft vague, meaning these provisions will be difficult or impossible to implement in practice.

The organizers of the event remain firmly convinced that **the adoption of the Draft Law in its current form would seriously affect the right to a private life and freedom of expression.** *"At this stage, taking into account the many critical opinions about this Draft Law, we believe that this Draft should be sent to the authors to be improved, as part of a consultative process that should also involve representatives of civil society, the mass media and the information technology and communications sector"*, declared Vadim Vieru, a Promo-LEX lawyer. Even if this draft is not sent to the authors for a new version, the participants in the debate requested that Parliament ensure that the public is consulted on Draft Law no. 161. In particular, the publication of the new version of the draft—modified on the basis of the opinions expressed so far—is requested, so that civil society and the private sector have a reasonable amount of time to present their opinions on the new version and organize public debates before the presentation of the modified Draft no. 161 for debate in a legislative forum.

The President of the Parliamentary Commission for National Security, Defense and Public Order of the Parliament of the Republic of Moldova, Mr. Deputy Roman Boțan, assured the participants in the debate that all of their recommendations would be taken into consideration while revising Draft no. 161 and that the Commission for National Security, Defense and Public Order would ensure public consultation in a broad format before the presentation of Bill no. 161 for debate in Parliament.

We note that the Draft Law was adopted by the Government on 30 March 2016, and, shortly after, an Appeal by civil society was published, expressing concern about the negative consequences for fundamental human rights that could result from the adoption of the Draft. The Appeal can be consulted [here](#).

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[\[1\]](#) The International Center for Non-for-Profit Law (ICNL) is an international non-for-profit organization that facilitates and supports the development of an enabling environment for civil society and civic participation. ICNL offers technical assistance, research and education to support the development of appropriate laws and regulatory systems for civil society organizations around the world. For more information, please visit: <http://www.icnl.org>

DOC – [ICNL Opinion on the Draft Law no. 161 on Amendments and Supplements to Certain Legislative Acts \(“Big Brother” Law\)](#)