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ELECTRONIC SURVEILLANCE: WHAT YOUNG CITIZENS THINK? AN ANALISYS OF CONCERNS PRODUCED BY SURVEILLANCE

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ABSTRACT:

IN THE LAST DECADE MANY INTELLIGENCE SERVICES INTEGRATED TECHNOLOGY IN THEIR DAY-TO-DAY WORK WHILE THE CITIZEN THAT NEEDS TO BE PROTECTED USES TECHNOLOGY IN ALMOST EVERY ASPECT OF THEIR LIFE. SURVEILLANCE AND ELECTRONIC SURVEILLANCE HAVE BECOME A SUBJECT OF GREAT INTEREST FOR CITIZENS OR OTHER NON-GOVERNMENTAL ORGANIZATIONS BECAUSE OF MEDIA ATTENTION. MUCH SCHOLARLY ATTENTION IS PAID TO THE WAY INTELLIGENCE SERVICES ARE USING TECHNOLOGY TO PERFORM THIS ACTIVITY OR THE INTRUSIVE CHARACTER OF THIS PHENOMENON. HOWEVER, WE KNOW VERY LITTLE ABOUT WHAT HAPPENS AT CITIZENS' END, HOW CITIZENS PERCEIVE THIS ACTIVITY.

THIS PAPER ADDRESSES THIS GAP IN LITERATURE AND ANALYZES WHAT ARE YOUNG CITIZENS LEGAL CONCERNS ABOUT ELECTRONIC SURVEILLANCE. THE STUDY USES ROMANIA AS A SINGLE-CASE STUDY AND SEMI-STRUCTURED INTERVIEWS CONDUCTED IN MARCH – APRIL 2022 WITH YOUNG CITIZENS OF DIFFERENT SOCIO-DEMOGRAPHIC PROFILE. THE PAPER SEEKS TO UNDERSTAND WHAT ARE THE MAIN FEARS RELATED TO THE LEGAL ASPECTS OF THIS PHENOMENON, MORE EXACTLY THE RIGHTS THAT YOUNG CITIZENS SEE AS VIOLATED.

KEY WORDS: SURVEILLANCE, PUBLIC PERCEPTION, ROMANIA, LEGAL ASPECTS

INTRODUCTION

Intelligence community have a long history of using its powers to mass intelligence-gather data and information from ordinary citizens. In the last years, electronic surveillance is considered to be an extremely useful tool in the intelligence communities. The technological evolution allowed the possession of electronic devices by each individual citizen, creating a space that can be exploit by secret services. The newest way to exploit this space is through electronical surveillance. Often, the excessive use of this tool by the intelligence services can cause legality problems for the citizens of a state, because of its intrusiveness.

The subject of electronic surveillance is intensively discussed in the literature. Many studies discuss technical aspects of this activity, its benefits or the methods used by various

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intelligences communities. As far as Romania is concerned, the subject of electronic surveillance seems to be apparently new, not that covered by the specialized literature. Our study aims to fill the gap by highlighting some Romanian perceptions about electronic surveillance. It is important to see how various activities practiced by certain state institutions are perceived by the citizens of that state, because, to a large extent, the work done by them determines and shows the degree of trust and security of citizens.

This research aims to carry out a qualitative analysis on the perception of Romanian citizens regarding the electronic surveillance practiced by the information structures in Romania. Using the interview method, we want to analyze what are the main concerns associated with the legal aspects of electronic surveillance.

The remainder of this article proceeds as follows. The first section reviews the concept of electronic surveillance and the challenges brought by it. Next, we will briefly present the research design of the study with emphasis on the case selection and data methodology. The third section includes a short analysis and discussions on the main findings.

ELECTRONIC SURVEILLANCE: A THEORETICAL FRAMEWORK

Surveillance is the concept that can be immediately recognized as a trivial social phenomenon, which is mostly used by governments, companies or different people in order to achieve various goals. The benefits of surveillance are important, in that it prevents and helps detect hazards and threats that may occur in a specific area of interest.³

When it comes to surveillance, the collection of information, both inside and outside a state through different means, is the most useful instrument for fighting against threats such as: terrorism, organized crime and aggressive behaviors within society. We can say that surveillance represents the necessary means by which both the protection and the national security of the citizens of a state can be ensured.⁴ As for electronic surveillance, it is different from other forms of surveillance. It represents a subcategory of mass surveillance and its mode of action is different. The new type of electronic surveillance involves the use of modern electronic means, through which information and data are collected with greater ease, in order to fulfill the goals proposed before the collection actions.

Some approaches in the literature, such as that of Edward Balkovic, support the idea that electronic surveillance is an important, extremely valuable tool in law enforcement, something that could be highlighted over time by the fact that certain sectors such as public safety could be improved and certain prosecution cases could be resolved. Therefore, electronic surveillance is considered to be an important means that can provide convincing evidence in solving various crimes.⁵

Over time, digital surveillance grew with the evolution and technological expansion of society and the appearance of new technologies that became more and more advanced. This evolution has determined, and further increased the phenomenon of electronic surveillance and made this activity even easier to be carried out by various state organizations/structures, but also by ordinary citizens, through various interception tools that have allowed them to

³ Victoria Wang and John V. Tucker, "Surveillance and Identity: Conceptual Framework and Formal Models," *Journal of Cybersecurity* 3, no. 3 (2017): 145–58.

⁴ Eliza Watt, "The Right to Privacy and the Future of Mass Surveillance," *International Journal of Human Rights* 21, no. 7 (2017): 773–99.

⁵ Edward Balkovich et al., *Electronic Surveillance of Mobile Devices*, Rand Corporation, 2015.

collect from an external source, both personal conversations and data transfers and web activities of ordinary citizens.⁶

The increasingly frequent use of electronic surveillance on citizens can cause new problems within societies, by the fact that behavioral changes take place that can have both positive and negative aspects. From an ethical point of view, the regular use of this activity may lead to the violation of certain rights and freedoms of the citizen. The intelligence services can use this tool to the point where the legal boundaries are not exceeded, with the transition to the opposite side, without obtaining the consent of the citizen, there will be violations of fundamental rights (for example, the right to privacy).

When it comes to electronic surveillance activities, there must be a check of legality in the operations carried out, in the methods used, files and records of information inspected by intelligence services and government structures. In this regard, human rights and the integrity of individuals, including the right to private life, which are of significant importance, must be emphasized.⁷ The fact that the information flows from electronic surveillance are truly global, as well as the activities that are kept under surveillance, there is a need for regulation not only at the local level, in a single state or group of states such as the European Union, but a more integrated, more global framework is needed at a high level to be able to face future challenges.⁸

The literature review shows that some authors such as Steven Feldstein argue that the electronic surveillance of citizens by the state is not essentially illegal. He asserts that governments may have legitimate reasons for undertaking such surveillance that are largely based not on a desire to limit individual liberties, but to help security forces deter bad acts and solve problematic cases. Robert K., argues in his work "Intelligence, Terrorism and Civil Liberties" that the interventions of intelligence agents in people's private lives are considered to be activities harmful to civil liberties. These activities are secret and do not allow people to object. However, little or no information is known about intelligence activities that do not involve intrusion or intrusive technology.⁹ Intelligence communities operate in secret, so it is extremely difficult to subject their activities to certain controls that the constitutional framework considers and understands to be essential in preventing abuses of power.¹⁰ Moreover, at the level of the European Union, there is a recommendation from the European Council regarding the electronic monitoring of individuals. According to them, electronic surveillance seems to offer a set of basic principles that are related to ethical aspects and professional standards, therefore: "national authorities must provide a fair, proportionate and effective use of different forms of electronic surveillance in criminal justice processes, while the rights of the person concerned must be fully respected".¹¹

The electronic surveillance practiced by the intelligence structures can sometimes produce problems of legality. There are many situations when the use of this activity becomes illegal and can produce certain damages to individuals or companies. Based on this,

⁶ H Akın Ünver, "Politics of Digital Surveillance , National Security and Privacy," *EDAM Cyber Governance and Digital Democracy* 2018/2, no. April (2018): 23.

⁷ Njord Wegge, "Intelligence Oversight and the Security of the State," *International Journal of Intelligence and CounterIntelligence* 30, no. 4 (2017): 687–700.

⁸ David Murakami Wood et al., "A Report on the Surveillance Society," *Polity* 70, no. September (2006): 102.

⁹ K G Robertson, "Intelligence, Terrorism and Civil Liberties," *Journal of Conflict Studies* 7, no. 2 (1987): 43–62.

¹⁰ Kate Martin, "Domestic Intelligence and Civil Liberties," *SAIS Review of International Affairs* 24, no. 1 (2004): 7–21.

¹¹ "Recommendation CM/Rec(2014)4 of the Committee of Ministers to Member States on Electronic Monitoring," no. 5 (2014).

the current study aims to test the following hypothesis: the public perception of Romanian citizens regarding electronic surveillance is negative. Citizens have various concerns about the legality of this action.

METHOD

In our study, Romania is a typical case, being representative for this study. Romania was chosen as a case study because the impact produced by the electronic surveillance practiced by secret services in Romania through modern technology can be observed. We also selected Romania due to the fact that in 2021, this topic of surveillance became popular, because the political environment proposed and voted, a draft law that would allow the interception of conversations on Whatsapp, Messenger, Skype and Telegram by law enforcement and security institutions.

The aspects related to the electronic surveillance of citizens seem to be approached superficially in Romania, just like in other countries. Subjects related to electronic surveillance do not represent a problem of particular importance to citizens, who in certain situations seem to be neglectful and unmoved by this subject. This largely leads many of the citizens to place this new phenomenon in a realm of obscurity. In addition, technological development is continuously improving, which makes the phenomenon of electronic surveillance highly influential, given that more and more citizens are using modern technology. In this context is not a surprise that many countries, even Romania, now apply various forms of digital surveillance of citizens in order to collect as much information as possible about them.¹²

Considering the fact that most citizens use mobile devices in their daily lives, there is no mandatory and specific criterion that determines the choice of a fixed timeframe to collect the data needed for this scientific work. So, our study was conducted between March and April of 2022.

Data were collected using the semi-structured interview tool. The choice of questions in this interview guide was based on the information from the literature review. The logic was to start from basic questions, to see the knowledge of the interviewees, and then to use more specific questions to test their feelings and perceptions. The choice of respondents for this interview was based on several criteria. A first criterion for the selection of the participants in this interview was that the interviewees have a high degree of interaction with modern technology, have at least a mobile device with an Internet connection and have at least a profile on social networks and are part of Generation Z¹³. We chose to ask members of generation Z because they are known to be natives digitals, they understand technology and will be the future leaders of our society. (Annex 1 provides an overview of the respondents) Moreover, we selected some persons that are informed and have a certain degree of knowledge regarding the subject of intelligence services.

After we have collected the data necessary we analyzed it by using deductive thematic analysis. Findings are discussed in the following section.

FINDINGS AND DISCUSSIONS

Aspects related to legality and electronic surveillance were one of the most relevant things tested by our interview. The results reveal divergent opinions on how the secret services and electronic surveillance are perceived by citizens.

¹² “Ghidul 3 / 2019 Privind Prelucrarea Datelor Cu Caracter Personal Prin Mijloace Video,” 2020.

¹³ Members of Generation Z are those born between 1996 and 2012.

A large part of our respondents feel that through abusive electronic surveillance, certain rights and freedoms essential to living in a legal, just and normal society are violated and restricted. A good part of the citizens believe that at certain times the use of this new method of collecting data and information can limit or restrict certain rights and freedoms essential to life. What people don't often remember is that electronic surveillance contributes to their safety. However, more and more citizens argue that ethical legality issues will arise as long as this activity continues to be conducted in an unfair and abusive manner without the prior consent of the target. Although at certain times there were various episodes in which the intelligence services carried out their activity in a less ethical form, their purpose was not to violate the rights and freedoms of citizens, but to protect them from the alleged dangers and threats that they can appear.

Other discusses a dilemma related to the possibility of being a victim of the phenomenon of electronic surveillance. The population can make different assumptions that support in different ways the fact that they were or were not part of a surveillance program, but validating this can sometimes be difficult in the absence of evidence.

After reviewing the collected data we can say that young people are able to define and describe the concept of electronic surveillance. Everybody seems to be familiar with this subject. This is because they are connected, informed, spend a large amount of time on the internet and are aware about the good and bad effect technology has in our lives. As for our hypothesis, The analysis of the interviews moderately confirms it. When asked about the legal aspects of this activity many young citizens address several aspects and discuss the violation of certain rights.

Within this hypothesis, we tried to extract from the respondents how and in what way this type of activity would restrict certain rights and civil liberties. In general, 9 respondents found that certain civil rights and liberties may be violated as a result of the electronic surveillance activity of the intelligence services. Another 8 respondents denied that this electronic surveillance would restrict certain rights and suggested that as long as it contributes to the safety of society, it does not represent an activity that produces problems of ethical legality. Moreover, most of these respondents believe that they have not been or that they cannot confirm that they have been victims of such an activity. However, most of them claim that this activity can violate certain rights when it becomes abusive and is not carried out with a specific meaning, towards a specific target.

More than half of our sample suggested that at certain times this type of activity may cause them some ethical legality problems, due to the fact that their right to privacy is violated. The vast majority of respondents were female

One of the respondents suggested that the right to privacy is violated when certain information that is personal is collected through electronic surveillance: "there are certain conversations or files that belong to each person, to their own privacy. Knowing that someone can read them or have access to them is disturbing." (I8). This illustrates that citizens sometimes think that this type of activity can limit their fundamental right to privacy, by being followed at every step, continuously, not being able to do certain things that make them feel good because someone is with eyes on them constantly: "I don't feel comfortable knowing they can see everything I write or they can retrace my steps" (I4). Citizens are influenced to view this activity as highly problematic and excessive when intelligence services access information with a higher degree of confidentiality without a specific reason: "intelligence service work for ensuring our protection. I know this. I also know that people can have bad intentions and can look through my stuff without a clear reason." (I9). Respondents believe that when any of your private activity is recorded or intercepted without

your consent, this right is violated. "Well, through electronic surveillance, your private life is violated, once it follows you, that is, it follows you every day, an agent who learns every intimate thing about you, follows you through technology, and learns absolutely everything, everything, everything you do. Then yes, I can say that your rights are violated, especially the right to privacy"(I13). Therefore, we can see that at certain times electronic surveillance can irritate citizens.

Other young respondents also suggested that as a result of the electronic surveillance, the right to free expression may be violated, producing problems of ethical legality. Following its restriction, the person will no longer be able to express his own opinion on a particular subject, for fear of being surveilled by the intelligence services. Eight respondents believed that freedom of expression is largely restricted by intelligence services through the conduct of electronic surveillance. The expression of certain opinions or ideas can be restricted to people through electronic surveillance. The fact that the intelligence services closely monitor any citizens opinion makes it unjustified and somewhat abusive. Restricting the right to free expression, which is so important in a democracy, can have significant effects on the citizens.

Three respondents suggested that no rights are violated by such electronic surveillance activity by the intelligence services. One of the interviewees admitted that at birth we signed a social contract with the state, which makes us subject to it. He believes that the state does normal things, designed to ensure security and they would have no reason to violate our rights: "I don't think that electronic surveillance restricts my rights or freedoms, because at birth we sign a contract with the state. So somehow we are subject to the state and I think they do some normal things, because after all the intelligence services belong to the state"(I1). We can see how some people view this activity as beneficial, with no malicious intent to infringe upon civil rights and liberties, and this leads them to take a favorable view of the use of electronic surveillance by national intelligence services.

People can answer based on their current knowledge of the topic. The fact that they do not have enough information to express their opinion on the subject, can sometimes produce false assumptions or even contradictory opinions on it. An argument for which the citizens respond in such a manner to the given hypothesis is that it refers to the past, to the old activities practiced by the state intelligence services that violated certain rights and freedoms. Although most of the respondents were not part of that regime, due to their age, they refer to the past through information transmitted by the people close to them. The assimilation of the past with the present produces in certain moments restlessness and mistrust in the national structures of the state. The result is a wave of frustrations and accusations against these institutions from which will also derive the fear that the rights of citizens will not be violated.

Another argument would be that people react and give certain answers because of emotions, without first passing the information through an objective filter. At certain times man reacts to the impulse and classifies a specific activity as negative without knowing enough about it. Many people who are asked about electroical surveillance, seem to claim that ethical legality issues arise and that certain rights are violated just because they hear the word surveillance. For many of them, this word initially means a negative activity and classifies it as abusive because it restricts your rights and freedoms: "surveillance is never a good word. (I7) ". This a result of media framing, who usually portrais intelligence services as abusive institutions.

Another argument would be that people respond in such a way because they relate to certain examples of alleged victims of this electronic surveillance activity. Presented on news channels or social media, alleged victimis have a significant impact on citizens. Practically,

following their confessions, which are mostly made with the aim of criticizing this type of activity, it will influence and at the same time determine the citizens to believe what they say. Therefore, they will support things based on what happened previously to other people, such as the violation of rights and freedoms essential to life. Practically, this confusion is achieved due to the fact that citizens relate to other examples that we consider truthful, without checking them beforehand and practically, from here most of us tend to regard certain activities as problematic for society.

Also, another argument why people respond in this way is that they don't know well enough how intelligence services work. Citizens assume certain things and most of the time this can produce negative opinions about certain activities, just as it happens when we talk about electronic surveillance.

Concluding everything stated above, we can say that this hypothesis is confirmed, given the fact that most of those who responded to this interview believe that this type of activity creates problems of ethical legality to the extent that it becomes abusive and unjustified. Most of the respondents claimed that electronic surveillance produces problems of legality when it becomes abusive, because citizens are infringed on certain essential rights and freedoms such as: the right to free expression, the right to confidentiality and the right to privacy, three extremely important rights for each individual.

CONCLUSION

This paper analyzed the way in which Romanian citizens perceive the process of electronic surveillance conducted by the intelligence services. More precisely, we wanted to test the public perception regarding the legality and effects of this activity.

The results of the analysis shed light on the way in which Romanian citizens perceive the electronic surveillance activity practiced by the state's intelligence services. Many of them understand the benefits of this actions while others are more reluctant.

We discovered that a good part of the people interviewed consider that electronic surveillance is disturbing and somewhat harmful for society when it becomes abusive and intrusive even though none of the respondents were able to discuss evident manifestations of this phenomenon. Everybody believes that when all your intimate and confidential things are taken away from you under the gaze of the authorities, it causes to some extent a feeling of frustration. Those who discuss the legality aspects of this action argue that electronic surveillance violates: the right to free expression, the right to confidentiality and the right to privacy. This attitude is explained by the lack of knowledge about the work of intelligence services, by the way mass-media frames and narrates this kind of activities and previous experiences.

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Annex 1
Overview of respondents

<i>Interview</i>	<i>Name</i>	<i>Sex</i>	<i>Age</i>	<i>County</i>
I1	C.A.V	M	23	Cluj
I2	A.A.I	M	22	Hunedoara
I3	S.M.I	M	22	Hunedoara
I4	A.L.S	F	21	Bacău
I5	B.A.Ș	F	21	Bacău
I6	I.P	M	24	Suceava
I7	I.C	M	26	Bacău
I8	F.R.A	M	20	Bacău
I9	H.R	M	24	Bacău
I10	S.M.R	M	24	Bacău
I11	H.K	F	26	Timișoara
I12	M.C.A	M	21	Cluj
I13	B.O.I	F	23	Cluj
I14	B.M.M	F	21	Neamț
I15	V.A.F	M	21	Hunedoara
I16	B.L.G	F	23	Hunedoara
I17	M.C.A	F	22	Vâlcea
I18	M.E	F	22	Suceava
I19	V.M.E	F	22	Neamț
I20	L.R.C	F	32	Cluj