



7 July 2026

Mr. Justice George Birmingham
Independent Examiner of Security Legislation
87 St. Stephen's Green
Dublin 2
D02 K230

Dear Judge Birmingham,

Thank you for your annual report for 2025 pursuant to section 244 of the Policing, Security and Community Safety Act 2024, which I received on 16 April 2026. I had caused a copy of the report to be laid before each House of the Oireachtas on 21 April 2026.

I welcome the evidently thorough work undertaken by you and your team in the first year of your Office's operations. I share fully your view that ongoing, continuous review is necessary so that the public can have confidence the objectives of security legislation are being achieved, without unwarranted intrusion on human rights and civil liberties.

I have taken note of the range of recommendations you have made to strengthen security legislation in certain respects and to extend the capacity of agencies working in this area; and also to strengthen procedures in relation to the way in which authorisations are sought prior to the exercise of the relevant powers.

In accordance with section 248(1) of the Policing, Security and Community Safety Act 2024, I wish to respond on behalf of the Government to the recommendations contained in your Annual Report for 2025. The Government's response is enclosed. For ease of reference the recommendations are numbered in accordance with your summary of recommendations at pages 62 and 63 of your Report.

I take the opportunity to assure you of the Government's continued commitment to effective security legislation with appropriate safeguards and oversight, and continued support for your important role in this regard.

Yours sincerely,

Micheál Martin TD
Taoiseach



Response of the Government to the Annual Report of the Independent Examiner of Security Legislation 2025

7 July 2026

A. Recommendations relating to the Interception of the Postal Packets and Telecommunications Messages (Regulation) Act 1993

The Government has taken note of your assessment that the 1993 Act is seriously out of date and that there are a number of areas in which the legislation is deficient.

This is a view shared by the Government and, as you note, the Government has already approved a proposal by the Minister for Justice, Home Affairs and Migration to replace the 1993 Act. The Minister for Justice, Home Affairs and Migration has directed the drafting of a General Scheme of a new Communications (Interception and Lawful Access) Bill. The key features of the Bill will be subject to a consultation process.

1993 Act – recommendation 1

The aim of the new Bill is to create a flexible legal framework which includes comprehensive principles, policies and definitions to allow for lawful interception powers to be applied to any digital devices or services which can send or receive a communications message, e.g. the internet of things, email and digital messaging services.

1993 Act – recommendation 2

It is proposed that the new Bill will provide for lawful access to all forms of communications, whether encrypted or not, but only where necessary and proportionate, with appropriate safeguards.

1993 Act – recommendation 3

The new Bill will provide for the secure storage and access to materials and proceeds of lawful access operations, in line with the caselaw of the European Court of Human Rights and the Court of Justice of the EU, and international best practice.

1993 Act – recommendation 4

The new Bill will provide for the use of scanning equipment at specific locations to detect and record identifier data on mobile devices (International Mobile Subscriber Identifier and International Mobile Equipment Identifier) in use by individuals suspected of involvement in serious crime or threats to the security of the State.

1993 Act – recommendation 5

The Bill will provide for broadening the scope of postal interception to include delivery and courier services beyond An Post.



1993 Act – recommendation 6

It is proposed that the new Bill will provide accelerated and simplified procedures, subject to appropriate legal safeguards, for obtaining warrants for lawful access/interception in emergency situations.

1993 Act – recommendation 7

The new Bill will address the apparent need for the Garda Commissioner to provide a physical signature, in line with your recommendation.

1993 Act – recommendation 8

The Minister for Justice, Home Affairs and Migration has indicated that the new Bill will maintain a role for the Minister but will also introduce judicial authorisation of lawful access/interception requests for the first time. Further detail on a proposed new authorisation framework for lawful access/interception will be outlined in the General Scheme of the Bill. The approach to be adopted is being considered in the context of this ongoing work and will take account of the practical and operational aspects of introducing judicial authorisation.



B. Recommendations relating to the Criminal Justice (Surveillance Act) 2009

The Government has taken note of your recommendations in relation to the Criminal Justice (Surveillance Act) 2009 including your analysis of the distinct regimes; your identification of the need for clarity around duration of monitoring; and your recommendations on retention of and access to material.

The Government welcomes your detailed recommendations and they will be the subject of further analysis and engagement with relevant competent authorities. While there are no immediate plans for substantive review and amendment of the 2009 Act, the need for any targeted amendments and the timing of those will form part of that further analysis.

2009 Act – recommendation 1

This recommendation will be considered in the context of the ongoing review of the statutory framework for intrusive powers. In developing any proposals, consideration will be given to the period of time after which judicial authorisation may be required, and in developing any proposals, regard will be had to the practical and operational impacts for those organisations exercising these powers and for the Courts.

2009 Act – recommendation 2

The legislation provides for powers that may be exercised by An Garda Síochána, the Defence Forces, Fiosrú, the Revenue Commissioners and the Competition and Consumer Protection Commission. In many cases, your recommendation is already being implemented in practice. On foot of your recommendation, the Department of Justice, Home Affairs and Migration will engage with the relevant competent authorities and consider any necessary legislative amendment to uphold the principle of objective oversight. This will take account of the practical and operational considerations that may arise from the differing scale of the organisations which are granted these powers, in a context where organisational structures and personnel resources are necessarily limited.

2009 Act – recommendation 3

The Department of Justice, Home Affairs and Migration will consider an appropriate legislative amendment to provide greater clarity on the issue of the further deployment of tracking devices after a period of four months' monitoring.

2009 Act – recommendation 4

This recommendation will be reviewed in consultation with the relevant competent authorities in order to establish an appropriate period of retention and restrictions on access.

2009 Act – recommendation 5

The relevant Departments will engage with the bodies exercising these powers in respect of secure storage and restriction of access to surveillance material with a view to prioritising the implementation of this recommendation.



C. Communications (Retention of Data) Act 2011, as amended

It is noted that your review of the legislation in this area is on the basis of the 2011 Act which was very substantially amended in 2022 to take account of significant developments in the law in this area both in the Courts here and the Court of Justice of the European Union.

As you will be aware, proposals for new legislation are currently under development in line with the Programme for Government commitment to enact new data retention legislation to provide for the inclusion of over-the-top and encrypted services.

2011 Act – Recommendation 1

It is intended that the legislative proposals under development will incorporate your recommendation to expressly and directly provide for powers in statute for the Police Ombudsman. Implementing this recommendation would address the issues you identified arising from the absence of a clear rank equivalence between roles within Fiosrú and ranks in An Garda Síochána. It would also provide an express statutory obligation for Fiosrú to keep, compile and report data.

2011 Act – Recommendation 2

Your recommendation regarding exceptions to the requirement that authorisations for cell site data in certain, limited circumstances may not be made by a senior officer having any prior involvement will be further considered in the course of development of the new legislation.

D. Further Issues

The Government welcomes your procedural recommendation to the relevant authorities with regard to the question of the particular sensitivities that arise in cases where categories of privilege exist, and it notes that the recommendation was well received by all relevant bodies.

Your proposal to carry out an overview of the State's existing espionage legislation, notably the Official Secrets Act 1963 is also welcome given, as you note, the antiquity of the current legislative framework and the significant evolution of the landscape in this regard in the intervening period.