



Telenetgroup NV/SA  
Law Enforcement  
Disclosure Report 2021  
(March 2022)



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## Executive summary

This report on the legal obligations for network operators and providers of electronic communication services aims to offer insights into the context and extent of surveillance and collection requests regarding customer data initiated by the Belgian government and authorities at Telenet Group NV. The report includes statistics on conventional (day-to-day) authority requests and information on legislation regarding mandatory 'data retention' for law enforcement purposes. This report is published on the Telenet Group NV corporate website in the section Sustainability Reporting.

Telenet is obliged to report on these statistics towards the Belgian Telco regulator BIPT (Belgian institute for Post and Telegraphy). The same information can be found below.



## 1. Statistics

### 1.1. Statistics regarding requests for subscription, usage and content data

Scope: All warrants and requests by the judicial authorities in execution of article 126 of the Belgian law on Telecommunication. This regards insights into subscription, usage and content (legal intercept) data.

Requests received:

Total received Warrants in 2021

- Total numbers of Warrants received = **58.217 waarvan 4.900 for LYCA Mobile and 288 for VOO FMVNO and 2.862 via TANK**
- Warrants can contain multiple requests related to multiple individuals. Below an overview on total received requests split by age category and authority

| Requisitioner   | Period between data storage and data request |                          |                          |                           |               | Cases where requests for data could not be met |
|---|--|--------------------------|--------------------------|---------------------------|---------------|--|
|   | # < 3 months                                 | 3 months =< # < 6 months | 6 months =< # < 9 months | 9 months =< # < 12 months | 12 months < # |  |
| Justice (art. 46bis & 88bis CIC)  | 57.675                                       | 7.024                    | 3.715                    | 300.126                   | 41.021        | 659  |
| Emergency Services (Article 126, § 2, 4°)                               | 686  | 0                        | 0                        | 0                         | 0             | 0  |
| Mediation Service for Telecommunications                                | 485  | 61                       | 12                       | 10                        | 301           | 10   |
| Intelligence and Security Services (Art. 18/7 & 18/8 W 30.11.1998)      | 1.132  | 290                      | 173                      | 329                       | 9.677         | 23   |
| Officers of the judicial police of the Institute (Article 126, § 2, 3°) | 0  | 0                        | 0                        | 0                         | 0             | 0  |
| Cell missing persons (Article 126, § 2, 5°)                             | 0  | 0                        | 0                        | 0                         | 0             | 0  |
| FSMA (Article 126, § 2, 7°)   | 0  | 0                        | 0                        | 0                         | 0             | 0  |

Lyca Mobile/VOO Full MVNO-acties kunnen niet uitgesplitst worden via aanvrager maar we kunnen stellen dat we tussen 1/1/2021 -31/12/2021 voor LYCA Mobile => **8.289** acties – voor **8.860** individuele targets hebben uitgevoerd. Voor VOO Mobile **432** acties voor **685** targets.



## 1.2. Statistics on identification requests, IMEI- and location tracking

Scope: Requests to receive data on identification, IMEI-tracking, Reload info, IP-addresses, and location-tracking (called online tracking). These are all individual requests.

Requests received:

| 2021 TLNG                 |                |
|---------------------------|----------------|
| <b>IDENTIFICATIONS</b>    |                |
| IDF ADDRESS               | 275            |
| IDF COMP                  | 89             |
| IDF IMSI                  | 311            |
| IDF IMSDN                 | 52             |
| IDF MEDIATION             | 535            |
| IDF MSISDN                | 401.326        |
| IDF NADOB                 | 1.107          |
| IDF NA                    | 424            |
| <b>TOTAL</b>              | <b>404.119</b> |
| <b>IMEI TRK</b>           |                |
| <b>IMEI TRK</b>           | <b>22.718</b>  |
| <b>Reload information</b> |                |
| TOP UP MSISDN             | 189            |
| TRK SERIE                 | 8              |
| TRK SCR                   | 11             |
| BAL_MSISDN                | 102            |
| <b>Total</b>              | <b>310</b>     |
| <b>IP</b>                 |                |
| IDF                       | 5.436          |
| IP LOG                    | 798            |
| <b>Total</b>              | <b>6.234</b>   |
| <b>Online tracking</b>    |                |
| TRACING                   | 389            |
| Site map                  | 215            |
| <b>Total</b>              | <b>604</b>     |
| <b>Grand total</b>        | <b>433.985</b> |

| 2021 LYCA       |     |
|-----------------|-----|
| Identifications | N/A |
| IMEI TRK        | 489 |
| Herlaadgegevens | N/A |
| IP adressen     | N/A |
| Online Tracking | 38  |

| 2021 VOO        |     |
|-----------------|-----|
| Identifications | N/A |
| IMEI TRK        | 125 |
| Herlaadgegevens | N/A |
| IP adressen     | N/A |
| Online Tracking | 11  |



### 1.3. Statistics on identification requests, IMEI- and location tracking

Since September (Pilot set up) and October we have implemented the TANK application where the MNO's within Belgium need to comply with the handling of certain warrants in phase 1 (Identification of a number – Track number and IMEI) via an automated data exchange. Hereunder the figures of the handled warrants via TANK.

| TANK REQUESTS (warrants) | SEP | OCT | NOV | DEC  | 2021 |
|--------------------------|-----|-----|-----|------|------|
| IDF1                     | 50  | 364 | 579 | 1026 | 2019 |
| TRK1                     | 10  | 79  | 43  | 104  | 236  |
| TRK2                     | 4   | 95  | 178 | 330  | 607  |
| Total                    | 64  | 538 | 800 | 1460 | 2862 |

## 2. Legal framework<sup>1</sup>

### 1.1. Introduction

The legal framework that regulates the cooperation of an operator of a network or the electronic communications service provider with the government is formed by a series of articles spread across various Acts and Royal Decrees (RD). Below you will find an overview of the most important articles in these Acts and Royal Decrees with a brief description of the content and the competent government. An in-depth reading of these articles is necessary for operators and service providers to be able to estimate their full scope. This overview is limited to the cooperation with judicial authorities and intelligence services. Other authorities (e.g. tax inspection) also have powers to question operators and service providers, but this document does not go further in detail regarding these authorities.

### 1.2. Basic provisions: respect for privacy and secrecy of communications

The protection of the personal and family life of each person is guaranteed by Article 22 of the Constitution and Article 8 of the ECHR (European Convention on Human Rights). Any deviation from this is only possible if foreseen by law. The Belgian Criminal Law states in Articles 259bis and 314bis that the interception of private communications is punishable. These articles also stipulate that the usage of equipment to intercept such communications as well as the use or trading of information obtained from illegal interception are deemed illegal. The Electronic Communications Act (ECA) further elaborates on the protection of electronic communications in Articles 122 to 127, and states that it is forbidden to learn about the existence of electronic communications, identity and location of the parties involved and of the content of these communications. It is forbidden to keep track of these communications unless they have been anonymized or in certain cases consent was obtained. The ECA also determines the cases and circumstances in which the above-mentioned legal principles

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<sup>1</sup> Reference: Legal obligations to cooperate for network operators and providers for electronic communication services by Luc Beirens – DSU/NTSU/264/217 – 17/05/2017



can be waived. The ECA determines which electronic communications data should be kept and lists the authorities who can retrieve this information. The Code of Criminal Procedure and the Security and Intelligence Act provide the powers and circumstances under which competent authorities may request electronic communications information, intercept electronic communications, or ask the cooperation of an operator or service provider. These Acts require operators or service providers to cooperate with the prosecuting authorities.

### 1.3. Code of criminal procedure

Below you can find the main articles on data retention and which entity can requests the retrieval of the data.

| <b>Art.</b>          | <b>Description</b>   | <b>Competence</b>   |
|----------------------|--|---|
| 39ter                | Conservation of designated data  | Criminal investigation officer  |
| 39quater §2          | Conservation of specified data on demand from a foreign government   | police service designated by his Majesty  |
| 46bis                | Retrieval of data about <ul style="list-style-type: none"> <li>• Identification of users / devices</li> <li>• Information of services</li> </ul> | Crown prosecutor<br>Directly or via<br>a police service designated by his Majesty                                       |
| 88bis                | Retrieval of<br>Traffic and location data<br>Both historical and real time   | Research Judge<br>State Attorney in certain cases<br>Directly or via<br>a police service designated by his Majesty      |
| 90ter<br>90quater §2 | Intercepting communications  | Investigating judge<br>State Attorney in certain cases<br>Directly or via<br>a police service designated by his Majesty |
| 90ter<br>90quater §4 | Provide information / cooperation to gain access to communications or systems  | Investigating judge<br>State Attorney in certain cases<br>Directly or via<br>a police service designated by his Majesty |
| 464/13               | Cf. Art. 46bis but then in the context of a criminal investigation   | Judge who keeps track of execution of punishments   |
| 464/25               | Cf. Art. 88bis but then in the context of a criminal investigation   | Judge who keeps track of execution of punishments   |
| 464/26               | Cf. Art. 90ter but then in the context of a criminal investigation   | Judge who keeps track of execution of punishments   |

[LOI - WET \(fgov.be\)](#) : for investigations and judicial investigations

[LOI - WET \(fgov.be\)](#): for criminal investigations



#### 1.4. Royal Decree establishing the obligation to cooperate in court proceedings

RD January 2003: Terms and provisioning for the legal obligation to cooperate in legal warrants relating to electronic communications, hereby you can find the main and relevant articles out of this RD .

| Art.        | Description   |
|-------------|---|
| 1           | Definitions   |
| 2           | Obligation of CCJ based on Belgian territory<br>Possibility to have a shared CCJ (Collaboration Cell Justice)<br>Security Clearance CCJ members<br>Permanent availability CCJ<br>Notice of information (and amendments thereto) regarding CCJ and members of BIPT<br>Obligation to protect information CCJ and ensure confidentiality |
| 3           | Collaboration regarding identifications Article 46bis - appointment NTSU CTIF<br>Powers of NTSU CTIF to access customer data<br>Powers of NTSU CTIF to control this data transfer   |
| 4           | Collaboration regarding access to traffic and localization data - in real time or historical<br>Timeframe in which to respond to a question<br>Power of government to regulate format and transfer mode   |
| 5           | Co-operation for interception of electronic communications<br>Indication NTSU CTIF as a central service intercepting communication  |
| 6           | Obligation to meet government requests<br>Quality requirements of transmitted data: Correlatable, in clear language<br>Real-time forwarding in a secure manner<br>To respect ETSI and 3GPP standards - authority of the government to choose options  |
| 8           | Obligation to time synchronization of operator systems<br>Accuracy of notified times  |
| 10          | Provisions concerning investment, exploitation and maintenance costs<br>Reference to attachment for fees  |
| 10bis       | Authorization of government to determine format and transfer method<br>Obligation to provide information if electronic exchange is not possible   |
| Attachments | Information on cooperation fees<br>Definitions: Query / Query Criterion / Specific Request<br>Fees for performance<br>Annual fee<br>Reaction possibility when requesting accumulation   |

[LOI - WET \(fgov.be\)](http://loi-wet.fgov.be)





## 1.5. Intelligence Services Act

Act of 30 November 1998 - Act regulating the intelligence and security services

| Art.  | Description  | Competence  |
|-------|--|---|
| 18/7  | Retrieval of data about <ul style="list-style-type: none"> <li>• Identification of users / devices</li> <li>• Information of services</li> </ul> | Head of service of Intelligence Service<br>Information Officer in certain cases                               |
| 18/8  | Retrieval of<br>Traffic and location data<br>Both historical and real time   | Head of service of Intelligence Service<br>Information Officer in certain cases                               |
| 18/17 | Interception of communications   | Head of service of Intelligence Service<br>after agreement by BIM (Special<br>Intelligence Methods) committee |

[LOI - WET \(fgov.be\)](http://loi-wet.fgov.be)

## 1.6. Duty to collaborate with warrants provided by the intelligence services

RD 12 OCTOBER 2010 - Royal Decree on the arrangements for the legal obligation (warrant-based) to cooperate with the intelligence and security services relating to electronic communications

| Art | Description  |
|-----|--|
| 1   | Definitions  |
| 2   | Obligation of CCJ based on Belgian territory<br>Possibility to have a shared CCJ<br>Security Clearance CCJ members<br>Permanent availability CCJ<br>Notice of information (and changes thereto) regarding CCJ and members to BIPT<br>Obligation to protect information CCJ and ensure confidentiality  |
| 3   | Participation for identifications Art. 18/7<br>Jurisdiction of intelligence services to access to customer data<br>Jurisdiction of intelligence services to regulate this data   |
| 4   | Participation traffic and localization data - in real time or historical<br>Timeframe in which to respond to a question<br>Power of government to regulate format and transfer mode  |
| 5   | Cooperation for interception of electronic communications<br>Designation of a network connection point determined by head of service intelligence service  |
| 6   | Power of government to determine format and way of transfer<br>Obligation to provide information if electronic exchange is not possible  |
| 7   | Provisions relating to investment, exploitation and maintenance costs<br>Reference to attachment of RD obligation of collaboration legal proceedings for fees for inquiries by intelligence services   |
| 8   | Obligation to meet government requests<br>Quality requirements of transmitted data: correlated, in clear language<br>Real-time forwarding in a secure manner<br>Respecting ETSI and 3GPP standards - authority of the government to determine options<br>Obligation of time synchronization of operator systems<br>Accuracy of transmitted times |

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## 1.7. Act on electronic communications (ECA)

Act of 13 JUNE 2005. - Electronic Communications Act

| Art.   | Description  |
|--------|--|
| 122    | Basics of traffic handling (delete / anonymize)<br>And exceptions for: <ul style="list-style-type: none"> <li>• legal obligation</li> <li>• billing</li> <li>• marketing</li> <li>• fraud detection</li> </ul>   |
| 123    | Basic principles of handling location data and exceptions  |
| 124    | General Principle of Prohibition of Notice, Identification, Interception, Use of this Information  |
| 125    | Exceptions to Art. 124 and 259bis and 314bis Criminal Code (Interception)<br>If the Act imposes it <ul style="list-style-type: none"> <li>• Surveillance on proper operation / execution</li> <li>• Aid and emergency services</li> <li>• BIPT, Investigating judge, Crown Prosecutor, Head of Service VSSE, ADIV</li> <li>• Telecom Ombudsman</li> <li>• Civil Servants of Economics Department</li> <li>• Ethics Committee Telecom</li> <li>• Prevent spam / stalking</li> </ul> |
| 126 §1 | General obligation of traffic data retention   |
| 126 §2 | Authorities who may request this information <ul style="list-style-type: none"> <li>• Judicial authorities</li> <li>• Information and security services</li> <li>• Emergency services</li> <li>• Officers BIPT</li> <li>• Officer Cell Missing Persons (entity of Federal Police)</li> <li>• Telecom Ombudsman</li> </ul>  |
| 126 §3 | Determination of retention period and reference to RD for data   |
| 126 §4 | Obligations regarding <ul style="list-style-type: none"> <li>• Quality Warranty and data protection</li> <li>• Security against destruction, alteration, unauthorized access or disclosure</li> <li>• Treatment by members of Coordination cell only</li> <li>• Conservation (retention) within the EU</li> <li>• Technological protection obligation</li> <li>• Keeping a log of usage of stored data</li> </ul>  |
| 126/1  | Obligations to abide by the Coordination Cell <ul style="list-style-type: none"> <li>• Establishment of coordination cell</li> <li>• Possibility of common coordination cell</li> <li>• Security clearance for members of the coordination cell</li> <li>• Draw up internal procedure for handling questions</li> <li>• Designate a special appointee for protection of personal data</li> </ul>   |
| 127 §1 | Power of government to impose administrative / technical measures regarding user identification  |
| 127 §2 | Prohibition to replace technology which makes identification / localization /  |

[LOI - WET \(fgov.be\)](http://loi-wet.fgov.be)



### 1.8. Royal Decree on retention of data

RD concerning execution of Article 126 of the Act of 13 June 2005 on electronic communications (13/09/2013)

| Art | Description   |
|-----|---|
| 2   | Definitions   |
| 3   | Concerning fixed telephony: identification information / information on traffic and localisation          |
| 4   | Concerning mobile telephony: identification information / information on traffic and localisation         |
| 5   | Concerning Internet access: identification information / information on traffic and localisation          |
| 6   | Concerning electronic mail services: identification information / information on traffic and localisation |
| 7   | Obligations when combining different services required<br>Time stamp precision / synchronisation          |
| 8   | Obligations concerning the responsible for the protection of Privacy-related information                  |
| 9   | Obligation to provide BIPT with statistics  |

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### 1.9. RD Regarding the identification of users of prepaid cards

RD regarding identification of end-user of public electronic mobile communications services provided by a prepaid card (27/11/2016).

| Art.  | Description   |
|-------|---|
| 1     | Application field: Telephone number BE / IMSI BE<br>Exclusion of identification: M2M Cards  |
| 2     | Definitions: document of identification / method of identification  |
| 3 – 6 | Obligations of end user in identification matter and reporting of theft/loss  |
| 7     | Basic principles of obligation of identification  |
| 8     | Obligation of deactivation when notified of theft /loss   |
| 9     | Obligation of verification using valid identification methods   |
| 10    | Authorisation through lecture / scan / photograph of identity card  |
| 11    | Obligatory verification that Belgian identity card BE wasn't stolen or was the object of fraud<br>Actions to take when confronted with irregularities |
| 12    | Information that can be retained for the means of identification  |
| 13    | Obligation to propose at least one valid identification method  |
| 14    | Terms to physically identify an end user  |
| 15    | Terms to identify an end user with the electronic identity card   |
| 16    | Terms to identify a user with the help of an identification service provider  |



|    |   |
|----|---|
| 17 | Terms to identify with the help of an online bank payment         |
| 18 | Terms when extension of product                                   |
| 19 | Terms to identify by means of an electronic communications device |

Telenetgroup has implemented in December 2021 an MRZ capable customer onboarding and fall out (for documents not readable with e-reader or MRZ can be followed up). BIPT agreed to the solution.

[LOI - WET \(fgov.be\)](#)

#### 1.10. MD on buffering and filtering of electronic communications

Ministerial Decree (MD) concerning the execution of Article 6, § 3, sentence two and Article 10bis, sentence two of the RD of 9 January 2003 concerning the terms of compulsory legal collaboration in case of judiciary demands concerning electronic communications This MD will define the followings terms and conditions:

- The instalment of a buffer capacity by the operators to ensure that in the event of a connection failure between operator and NTSU CTIF, no data will be lost
- Filtering possibilities that an operator has to provide before the data reaches NTSU CTIF. Objective of this filtering is to limit the amount of electronic intercepted data to the strict minimum as requested by the investigating judge. MB published 05/08/2020.

Telenetgroup is compliant however testing with CTIF has still to be planned by them.

[Moniteur Belge - Belgisch Staatsblad \(fgov.be\)](#)