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Warsaw, 5 October 2007

The Honourable
Jarosław Kaczyński
President of the Council of Ministers

Al. Ujazdowskie 1/3
00-950 Warsaw, Poland

Open Letter

Public opinion was moved by the media information that the officers of the Central Anticorruption Bureau (CBA) had gained the power to obtain unlimited and direct access to the Social Insurance Institution's (ZUS) database containing numerous vital citizens data. The legal basis for such activities is provided by Section (§) 6 (1) of the Regulation of President of the Council of Ministers dated 27 September 2006 on the principles of transferring the information collected by other state authorities to CBA.

Respect for the right to privacy is one of the principal duties of the public authorities. The sphere of privacy may be subject to interference, however only in the instances if a statute so provides and the requirements of necessity and indispensability are observed. Protection of privacy is becoming an illusion when anonymous and unsupervised officers, acting pursuant to the Prime Minister's regulation, obtain unlimited access to private, and sometimes intimate, matters of the citizenry.

We wish to refer to the contents of the statement by the Helsinki Committee in Poland dated 6 July 2007 which emphasized, amongst others, that the Constitution of the Republic of Poland and international human rights conventions expressly prohibit public authorities from gathering and using citizen-related information unless such gathering or use of the information is actually necessary in a democratic state. In the current circumstances, we feel obliged to invoke this fundamental principle.

Furthermore, we request that the Honourable Prime Minister and the Head of CBA accurately explain whether the Bureau has concluded any agreements concerning access to information with other state institutions collecting the citizens' data (apart from the one pertaining to ZUS). We also think that it is necessary to suspend the use of the direct and unsupervised dataflow systems until a constitutional review of the Regulation of 27 September 2006 is performed.

With kind regards,

On behalf of the Board of the Helsinki Foundation of Human Rights,

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Marek Antoni Nowicki

President of the HFHR Board

Information to:

- Mariusz Kamiński, Head of the Central Anticorruption Bureau
- Paweł Wypych, Chairperson of the Social Insurance Institution