

FAO: [REDACTED]

Telefónica UK Limited
Highdown House, Yeoman Way
Worthing, West Sussex, BN99 3HH
United Kingdom

By email only to [REDACTED]

13 January 2023

Dear [REDACTED]

Re: Telefónica's involvement in the UK's GPS tagging of migrants

We, the undersigned, write in relation to your company's involvement in the GPS monitoring of migrants by the UK Home Office. We are concerned with the data protection, human rights and mental health implications of the scheme and would therefore like to better understand the measures your company has put in place to ensure it does not contribute to harmful practices. We would also like to give you the opportunity to respond to the findings of research we have conducted concerning the various companies involved in the UK's GPS tagging scheme, a confidential draft of which is enclosed with this letter.

Concerns with the UK Home Office GPS tagging scheme

The use of GPS tags in immigration enforcement is a seismic change in the surveillance and control of migrants in the UK, causing tagged individuals serious feelings of anxiety, social exclusion, and sometimes causing re-traumatisation.¹ It forms part of a wider system of immigration reporting within the UK government's "Hostile Environment" policy.² We consider that the scheme violates people's human rights to privacy and to data protection, and have accordingly recently filed complaints with the Information Commissioner (ICO)³ and Forensic Science Regulator (FSR)⁴ against the Home Office, which are currently under investigation. We argue, amongst others, that:

- 24/7 GPS monitoring is excessive and goes beyond the aims of the legislation, and falls outside the reasonable expectations of data subjects

¹ See BID and others, 'Every Move You Make: The Human Cost of GPS Tagging in the Immigration System' (October 2022), <https://www.biduk.org/articles/research-reveals-inhumane-effects-of-gps-tagging-on-migrants>.

² JCWI, 'The Hostile Environment explained', <https://www.jcwi.org.uk/the-hostile-environment-explained>.

³ PI, 'Challenge to UK GPS tagging migrants' (17 August 2022), <https://privacyinternational.org/legal-action/challenge-uk-gps-tagging-migrants>.

⁴ PI, 'Challenge to systemic quality failures of GPS tags submitted to Forensic Science Regulator' (17 August 2022), <https://privacyinternational.org/advocacy/4940/challenge-systemic-quality-failures-gps-tags-submitted-forensic-science-regulator>.

- The ability to review all trail data in the event of a breach of bail conditions alert is not necessary for nor proportionate to the purpose of data processing
- There is no lawful basis to use trail data to assess individuals' Article 8 representations and further submissions
- No transparency is provided to data subjects as to the nature and extent of data collection and processing
- The various uses and re-uses of location data do not comply with the purpose limitation principle
- GPS location data can be inaccurate and quality failures can produce inaccurate data, in violation of the accuracy principle
- This form of surveillance poses a considerable risk to the fundamental rights and freedoms of tagged individuals
- The scheme lacks safeguards

Telefónica's involvement in GPS tagging

We have carried out research into your company's involvement in the GPS tagging scheme. Our findings are outlined in the enclosed draft report.

In summary, we understand that your functions include:

- Operating the mobile network that enables GPS tags to communicate with Airbus

Questions

In light of our concerns outlined above and your company's involvement in the GPS tagging of migrants in the UK, we would be grateful for responses to the following questions and requests:

1. Please confirm the current contract in place between your company and the Ministry of Justice is the one referenced in this contract award notice: <https://www.contractsfinder.service.gov.uk/notice/7e104c33-9287-4b48-b309-3efff93f4b82?origin=SearchResults&p=2>. Please provide us with a copy of the current contract in place.
2. In relation to your processing of the personal data of tagged individuals:
 - a. What kind of access does your company have to the personal data of tagged individuals? In particular, do you have access to "trail data"?
 - b. What guarantees have you provided to the Ministry of Justice to implement appropriate technical and organisational measures such that your processing will meet the requirements of the UK GDPR and DPA 2018, and ensure the protection of the rights of the data subject (as required by Article 28 UK GDPR)?

- c. Do you use the personal data you process in order to improve your products and services, or to gain insight into your clients' use of your products or services?
 - d. Do you have specific and suitable measures in place to protect special categories/sensitive data?
 - e. Does your company retain the personal data processed beyond what is required to provide your service?
3. Does your company systematically carry out due diligence to identify, prevent and mitigate human rights risks before supplying governments or public authorities with your services and/or products? Please share details of these processes, including any policies, guidelines or templates. Please also share results of these processes if carried out in relation to your involvement in the UK's GPS tagging scheme.
4. Does your company conduct any consultation with affected communities (such as migrants, refugees and asylum seekers in this case), medical professionals and human rights defenders as part of its due diligence processes?
5. Does your company have any other measures in place to ensure that the solutions, products, services or equipment it supplies in relation to GPS tagging are not causing or contributing to adverse impacts on the rights of migrants, refugees and asylum seekers (e.g. discrimination, unlawful detention, mistreatment, psychological or physical injuries, excessive data processing, surveillance leading to restrictions on the exercise of fundamental rights and freedoms, etc.)? Please provide evidence of such measures.
6. Please provide us with the following:
 - a. Brochures, presentations or other marketing materials provided to the UK Ministry of Justice and/or Home Office related to the services you provide for the GPS tagging scheme;
 - b. Any Human Rights Impact Assessments and/or Data Protection Impact Assessments performed prior to or after contracting;
 - c. Any Equalities Impact Assessment performed prior to or after contracting;
 - d. Any Data Processing Agreement in place between your company and the UK Ministry of Justice and/or Home Office that meets the requirements of Article 28(3) of the UK GDPR;
 - e. Any mid-project impact reports, reviews or statistics; and



- f. Any other documents providing details of the services, products, solutions or equipment you supply to governments in relation to GPS tagging.
7. Does your company have a mechanism in place for people to raise concerns or complaints in relation to the services, products, equipment or solutions you provide to governments?
8. Do you provide similar products/services to other governments around the world?

Do please let us know if any of these questions require clarification. We would be grateful for your response by **5pm on 3 February 2023**. We will assume that any response provided to us may be published unless otherwise notified. Should a meeting with our team be helpful to discuss any of the contents of this letter or any of the questions, we would be happy to arrange one.

Yours sincerely,

Bail for Immigration Detainees (BID)⁵

Migrants Organise⁶

Privacy International (PI)⁷

Enc. Draft Report – Who profits from the UK's 24/7 tracking of migrants?

⁵ BID is an independent charity that exists to challenge immigration detention in the UK. See <https://www.biduk.org/>.

⁶ Migrants Organise provides a platform for refugees and migrants to organise for power, dignity and justice to enable meaningful inclusion and integration. See <https://www.migrantsorganise.org/>.

⁷ PI is a non-profit, non-governmental organisation based in London, that works globally at the intersection of modern technologies and rights. See <https://privacyinternational.org/>.