

(English version)

**Question for written answer E-001570/24
to the Commission
Kostas Papadakis (NI), Lefteris Nikolaou-Alavanos (NI)
(29 August 2024)**

Subject: Responsibilities of the EU and the Greek Government in the wiretapping and spyware scandals

According to media reports that appeared in the Greek media in recent days, 28 out of the 87 natural and legal persons who were targeted by the Predator spyware were also spied on by the National Intelligence Service. This information supports the assumption that the wiretaps and surveillance originate from the same source.

However, that is at odds with the conclusions of the preliminary investigation conducted by the Greek Supreme Court into the phone-tapping case involving the use of Predator spyware, which found that no state service was involved.

Meanwhile, it is evident that the reactionary legislative framework shaped over the years by Greek governments and the EU enables mass surveillance and a trade in spyware, turning anyone fighting for rights into a potential surveillance target by invoking broad terms that are open to interpretation, such as ‘national security’, ‘public order’, ‘public interest’, ‘combating terrorism’, ‘radicalisation’ and ‘organised crime’.

In view of this, what is the Commission’s position:

1. concerning the fact that the so-called ‘police directive’ 2016/680 on the processing of personal data by the authorities and Regulation 2021/821 allow the development, trade in and circulation of spyware, leading to the indiscriminate surveillance of communications and the violation of private life and personal data?
2. concerning the fact that the so-called ‘EU rule of law’ has proven to be, amongst other things, a ‘legal’ smokescreen for repressing, informing on, keeping files on and generally spying on everyone, against the backdrop of fierce competition between bourgeois states and between business groups, as always against the rights and interests of ordinary working people?

Submitted: 29.8.2024

**Answer given by Mr Reynders on behalf of the European Commission
(20 November 2024)**

The Commission strongly condemns any illegal access to interpersonal communications.

Under the ePrivacy Directive ⁽¹⁾, the interception or surveillance of communications and traffic data by public or private bodies other than the user is prohibited without the consent of the user.

Member States may restrict these rights to safeguard national security, defence, public security and investigation and prosecution of criminal offenses under certain conditions and adequate safeguards.

When intrusive surveillance software is used by public authorities to process personal data for law enforcement purposes, the Law Enforcement Directive ⁽²⁾ applies.

EU data protection law is also applicable to the processing of personal data by private entities, even where such processing is required for national security purposes.

National supervisory authorities and courts are competent to ensure effective compliance with this legislative framework. They must be independent and have sufficient powers and the necessary means to exercise them.

It is essential that these authorities make full use of their powers and investigate thoroughly any allegations of rights violations in this area.

Regulation (EU) 821/2021 ⁽³⁾ is not applicable in this context, as it covers the export of cyber-surveillance items from the EU to third countries.

⁽¹⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

⁽²⁾ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89-131.

⁽³⁾ Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast), OJ L 206, 11.6.2021, p. 1-461.

The 2024 Rule of Law Report ⁽⁴⁾ follows up on developments concerning the national checks and balances in response to allegations of alleged illegal use of spyware.

The chapter on Greece refers to the investigations carried out by independent authorities and the judicial investigations which started in 2022.

It also reports on criticism voiced by journalists and stakeholders as well as on other developments, including the Parliamentary Assembly of the Council of Europe's Resolution ⁽⁵⁾ and the Government's reply on the investigations and modifications of the applicable legal framework.

⁽⁴⁾ https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en
⁽⁵⁾ <https://pace.coe.int/en/files/33116/html>