


Basic information	
<b>2022/2077(INI)</b> INI - Own-initiative procedure	Procedure completed
Investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware  See also <a href="#">2023/2500(RSP)</a>  <b>Subject</b>  1.20.09 Protection of privacy and data protection 3.30.07 Cybersecurity, cyberspace policy	

Key players			
European Parliament	Committee responsible		Rapporteur
	<div>PEGA</div> Use of Pegasus and equivalent surveillance spyware		IN 'T VELD Sophia (Renew)
			Appointed 19/04/2022  Shadow rapporteur BILČÍK Vladimír (EPP) HEIDE Hannes (S&D) IN 'T VELD Sophia (Renew) NEUMANN Hannah (Greens /EFA) TARCZYŃSKI Dominik (ECR) LEBRETON Gilles (ID) ERNST Cornelia (The Left)
European Commission	Commission DG		Commissioner
	Justice and Consumers		REYNDERS Didier

Key events			
Date	Event	Reference	Summary
07/07/2022	Committee referral announced in Parliament		
08/05/2023	Vote in committee		
23/05/2023	Committee report tabled for plenary	<a href="#">A9-0189/2023</a>	<a href="#">Summary</a>
14/06/2023	Debate in Parliament		

14/06/2023	End of procedure in Parliament		
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Technical information	
Procedure reference	2022/2077(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Special committee/Committee of inquiry
Amendments and repeals	See also <a href="#">2023/2500(RSP)</a>
Legal basis	Rules of Procedure EP 215 Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	PEGA/9/10558

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		<a href="#">PE738.492</a>	28/11/2022	
Amendments tabled in committee		<a href="#">PE740.912</a>	30/01/2023	
Amendments tabled in committee		<a href="#">PE740.916</a>	30/01/2023	
Amendments tabled in committee		<a href="#">PE742.288</a>	30/01/2023	
Amendments tabled in committee		<a href="#">PE742.289</a>	30/01/2023	
Amendments tabled in committee		<a href="#">PE742.290</a>	30/01/2023	
Committee report tabled for plenary, single reading		<a href="#">A9-0189/2023</a>	23/05/2023	<a href="#">Summary</a>

## Meetings with interest representatives published in line with the Rules of Procedure

### Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	Role	Committee	Date	Interest representatives
<a href="#">HEIDE Hannes</a>	Shadow rapporteur	<a href="#">PEGA</a>	30/03/2023	BBR Saatchi & Saatchi
<a href="#">ERNST Cornelia</a>	Shadow rapporteur	<a href="#">PEGA</a>	26/10/2022	Omnium Cultural Foundation
<a href="#">ERNST Cornelia</a>	Shadow rapporteur	<a href="#">PEGA</a>	26/10/2022	Respresentatives of Regional Government Catalonia
<a href="#">ERNST Cornelia</a>	Shadow rapporteur	<a href="#">PEGA</a>	25/10/2022	Gonzalo Boyle
<a href="#">ERNST Cornelia</a>	Shadow rapporteur	<a href="#">PEGA</a>	25/10/2022	La Directa
<a href="#">ERNST Cornelia</a>	Shadow rapporteur	<a href="#">PEGA</a>	25/10/2022	Parliamentary Group Izquierda Unida Parliamentary Group Podemos

ERNST Cornelia	Shadow rapporteur	PEGA	25/10/2022	Amnesty International Spain
IN 'T VELD Sophia	Rapporteur	PEGA	14/10/2022	Professor Matthew Waxman
IN 'T VELD Sophia	Rapporteur	PEGA	10/10/2022	Council of Bars and Law Societies of Europe
LENAERS Jeroen	Committee chair	PEGA	30/09/2022	the bureau of investigative journalism
IN 'T VELD Sophia	Rapporteur	PEGA	19/04/2022	Amnesty International

## Other Members

Transparency		
Name	Date	Interest representatives
BRICMONT Saskia	02/03/2023	Tamleh (meeting with APA)
LÓPEZ AGUILAR Juan Fernando	29/11/2022	MEPs
BRICMONT Saskia	27/10/2022	RDV Ambassador Ioannis VRILAS, Permanent Representative of Greece to the EU
BRICMONT Saskia	28/09/2022	Frontline Defenders (meeting with APA)
BRICMONT Saskia	07/09/2022	Reporters sans frontières (meeting with APA)

# Investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware

2022/2077(INI) - 23/05/2023 - Committee report tabled for plenary, single reading

The Committee of Inquiry into the use of Pegasus and equivalent surveillance spyware adopted the report by Sophia IN 'T VELD (Renew, NL) on the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware.

In July 2021, the Pegasus Project, a collective of investigative journalists, NGOs and researchers, published a report based on a list in its possession of around 50 000 telephone numbers that may have been targeted using Pegasus spyware. Pegasus spyware has been widely used by both authoritarian and democratic governments around the world, with or without judicial oversight, to target journalists, lawyers, judges, activists, politicians and state officials. This raises concerns at various levels of the EU legal order with respect to data protection and privacy, freedom of expression, freedom of the press, freedom of association, redress mechanisms, legal remedy and fair trial, and democratic processes and institutions.

In response to this growing scandal, the European Parliament decided on 10 March 2022 to set up a committee of inquiry.

For the purposes of the inquiry, the PEGA Committee has used a broad approach as to what constitutes spyware, namely surveillance spyware that is installed on mobile devices by exploiting IT vulnerabilities.

Some Member States have deployed spyware and refused to comment on it by invoking national security, which, according to Article 4(2) of the Treaty on European Union (TEU), "remains the exclusive competence of each EU Member State". However, **the case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR)** makes it clear that national security considerations must be reconciled with the fundamental rights and democratic norms embedded in EU law. **The lack of a clear definition of national security** and the excessively broad interpretation of its scope by national authorities make it difficult to understand the justifications for the use of spyware.

Since the revelations of Pegasus Project, the United States has taken a number of steps to investigate and regulate these practices. In the EU, very few measures have been taken to date. Members believe that **clear rules must be adopted** to regulate the use and marketing of spyware, preferably in partnership with other countries such as the United States.

## Europe's business

Although it is not officially confirmed, it can be assumed that all EU Member States have purchased one or more commercial spyware products. One company alone, NSO Group, has sold its products to twenty-two end-users in no fewer than fourteen Member States, among which are Poland,

Hungary, Spain, The Netherlands and Belgium. In at least four Member States, **Poland, Hungary, Greece, and Spain**, there has been illegitimate use of spyware, and there are suspicions about its use in Cyprus. Two Member States, Cyprus and Bulgaria, serve as the export hub for spyware. One Member State, Ireland, offers favourable fiscal arrangements to a large spyware vendor, and one Member State, Luxembourg, is a banking hub for many players in the spyware industry.

Members condemned major violations of EU law in Poland and Hungary, where the respective governments have dismantled independent oversight mechanisms.

They also expressed concern about the use of spyware in Greece and Spain.

### ***EU's capacity to respond***

The report noted that some governments have used powerful, highly invasive and intrusive spyware against EU citizens, abusing their right to use surveillance where there is a risk to national security. This jeopardises democracy, the rule of law and citizens' fundamental rights.

The EU has **few means of countering these threats** and is ill-equipped to fight potential criminal activities by national authorities, even if they harm the EU itself.

Members pointed out that the Commission considers that addressing transgressions of EU law is the sole responsibility of national authorities. When faced with flagrant violations of the rule of law and fundamental rights, this stance – which has no basis in the EU Treaties – becomes very problematic. Although subsidiarity and division of competences are a pillar of EU law, **these should not lead to impunity for governments** targeting EU citizens with spyware for political purposes.

In response to the spyware scandal, the Commission initially wrote letters seeking clarification from the governments of Poland, Hungary, Spain, Greece, Cyprus and France. It would appear, however, that the Commission's warning was not followed up by further action. While it is true that the Commission has no powers to act in the area of national security, **'national security' should not be interpreted as an unlimited carve out from European laws and Treaties** and become an area of lawlessness. It is up to the Member States, however, to 'demonstrate that national security would be compromised in the case at issue'.

On 21 December 2022, the Commission sent a general letter to all Member States to "map the situation in the Member States". The Commission asked specific questions concerning, among other things, the purpose of using spyware, the authorities authorised to deploy it, the national definition of national security, legislation governing the processing of data for national security purposes, safeguards, prior authorisation by a court or an independent administrative authority, oversight and notifications.

On 28 March 2023, Commissioner Reynders told the PEGA that a large majority of the Member States had replied, but that the Commission was still in the process of collecting the Member State responses to this mapping exercise, and that it would 'carefully assess' the replies. Based on this mapping exercise, the **Commission will reflect on its options regarding the use of spyware in Member States**. However, no specific end date is envisaged for the Commission's assessment, 'given the evolving and sensitive nature of the assessment'. The Commission also mentioned that it would follow the findings of PEGA very closely.

Members considered that Parliament, the Commission and the Council have **the power and the duty to legislate, regulate and enforce**, and they must do so with vigour and ambition, putting the defence of EU democracy above short-term political considerations.

Spyware use must always be proportionate and authorised by an independent judiciary, which unfortunately is not the case in some parts of Europe. Stricter EU-level scrutiny is needed to ensure that spyware use is the exception, to investigate serious crimes, and not the norm.