

Brussels, 02 August 2022

AS 5506

Dear Director General,

Thank you for your letter dated 29/07/2022, which has been duly forwarded to my Authorities. In it you raised two distinctive issues, which in our view should be addressed separately.

The first one refers to the spyware “Predator“ system. I can assure you that the National Intelligence Agency (EYP) has not bought or ever used this software or any other illegal surveillance system. Furthermore, the fully independent and impartial national transparency authority (EAD) has conducted a very extensive in situ investigation in public authorities and private companies related to those spyware systems, and has concluded that neither EYP nor the police have embraced “Predator“. Thus, there is no issue of violation of the EU data protection acquis.

Please note that the incorporation of the EU data protection package into Greek law was among the first initiatives of the present government, immediately following the last parliamentary elections in 2019. An alleged attempt to place Predator on the mobile phone of Mr Androulakis, Member of the European Parliament, which was brought to the attention of the Commission, is in no way linked by to a state authority. However, in order to have full light shed on this very sensitive matter, the Government asked immediately that an investigation be carried out as a matter of urgency. This is currently being conducted by the Attorney General and the competent judicial authorities. I will be happy to inform you on the findings.

The second issue relates to lawful surveillance of telecommunications for the purpose of preventing or investigating serious crimes.

We are confident that Greece enjoys one of the stricter legal regulations in the respective field in Europe, well above the EU average.

Ex ante, all surveillances are first approved by a high-ranking member of the judiciary and is only applicable for reasons of national security or for the purpose of investigating especially serious crimes. This therefore excludes administrative offences, which you erroneously mention in your letter.

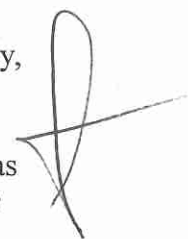
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Moreover, all such actions are reported to the Authority for the Protection of Secrecy of Communications (ADAE), which is composed of independent experts appointed by the Parliament and vested with constitutional guarantees of independence. Ex post, all subjects are informed that their data were processed for the investigation of serious crimes, which represent the vast majority of cases. The only exception regarding the obligation to inform the subject of such surveillance occurs exclusively on grounds of national security, pursuant to article 87(1) law 4790/2021. This type of legislation applies in most EU member states and reflects the sole competence of the national states to administer core issues of sovereignty. The legislative amendment was deemed necessary by the domestic legislature because of the instrumentalisation of migration and proved cases of espionage that occurred in the year prior to its enactment. It goes without saying that, in all cases, an appropriate and effective judicial remedy is foreseen.

The issue of whether the questions raised in your letter fall within the scope of competence of the Union would be highly debatable in any case. Notwithstanding, I do hope that the information shared above would allay whatever concerns you may have on this matter. In addition, taking into account the fact that national security should be treated with utmost sensitivity, we would consider it prudent in the future to avoid hastily endorsing verbatim specific publications coming from political media that do not always distinguish themselves for accuracy and objectivity. As I had assured you when I came to meet you a couple of months ago, I always stand at your disposal should you wish to check and ascertain the facts with us, in a spirit of cooperation and working together as a team for our common cause of protecting the rule of law. I truly believe that such a first step would be more constructive and instrumental, rather than promptly engaging in written correspondence based on media reports that amply remain to prove substantiated.

Yours sincerely,

Ioannis Vrailas
Ambassador



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