Greece's Predatorgate
The latest chapter in Europe's spyware scandal?

After Hungary, Poland and Spain, Greece is the latest Member State accused of spying on journalists and opposition politicians. While the opposition is seeking transparency and is steadily increasing the pressure, the Greek government has acknowledged select surveillance operations but insists on their legality and categorically denies purchasing or using the commercial Predator spyware. This EPRS paper synthesises the fast-paced and highly politicised developments at national level and contextualises the European Union's responses. It refers to the EPRS study 'Europe's PegasusGate' for more information and possible ways forward.

Spyware operations in Greece

While secret services frequently intercept communication in transit, spyware is particularly useful to circumvent encryption of internet communication services and to directly exfiltrate communication data processed by the target system. The latest revelations show that at least one Greek journalist and one opposition leader were targeted with the 'Predator' spyware ('Nova/Helios' in its updated version). Unlike some versions of NSO's Pegasus spyware, Predator spyware requires that the target click on a phishing link in order to infect the system. It allows operators to monitor every aspect of a target's phone, including calls, messages, photos and video. Cybersecurity experts from Citizen Lab and Google indicated that actors purchasing Predator spyware are probably government-backed. The news outlet Kathimerini questioned whether the Greek National Intelligence Service (EYP) might have licensed the software. Concerning interception technologies, To Vima reported in 2020 that the EYP intended to procure technology that would enable it to map internet communication, like traditional telecommunications.

After forensically confirming the hack with the research laboratory Citizen Lab, investigative news outlet Inside Story broke the story, on 11 April 2022, that the mobile phone of financial journalist Thanasis Koukakis had been infected with Predator. Four days later, another investigative news outlet, Reporters United, revealed that the National Intelligence Service (EYP) had also intercepted Koukakis' communications from June to August 2020 for reasons of national security and with authorisation from the in-house public prosecutor, Vasiliki Vlachou. Despite journalists establishing links between spyware companies and high-ranking government officials, the National Transparency Authority (EAD) cleared the government in its investigations concerning the surveillance of Koukakis. An investigation by the Hellenic Authority for Communication Security and Privacy (ADAE) at Koukakis' telecommunications provider revealed that his electronic communications had been intercepted by the EYP with the formal authorisation of the public prosecutor responsible, Vlachou. She signed the authorisation in September 2021, which, according to reports, coincides with the attempt to bug his mobile phone with the Predator spyware. Citing government sources, the same article states that the former EYP Director explained to the government that the surveillance of Koukakis followed requests from the Ukrainian and Armenian intelligence services. The Greek government denied being the source of these leaks and both countries rejected any notion of involvement.

The scandal only gained nation-wide attention once opposition leader (PASOK-Kinal) and MEP Nikos Androulakis (S&D) made public, in July 2022, that he had filed a lawsuit with the Prosecutor’s Office of the Supreme Court that an attempt had been made to hack his phone using Predator on 21 September 2021. The revelations came only a few days after the EAD had cleared the government in its investigations concerning the surveillance of Koukakis. An investigation by the Hellenic Authority for Communication Security and Privacy (ADAE) at Androulakis’ telecommunications provider revealed that his electronic communications had been intercepted by the EYP with the formal authorisation of the public prosecutor responsible, Vlachou. She signed the authorisation in September 2021, which, according to reports, coincides with the attempt to bug his mobile phone with the Predator spyware. Citing government sources, the same article states that the former EYP Director explained to the government that the surveillance of Androulakis followed requests from the Ukrainian and Armenian intelligence services. The Greek government denied being the source of these leaks and both countries rejected any notion of involvement.

According to a November 2021 article, in July 2022 the government tasked the EYP with monitoring the activity of citizens who participated in rallies against pandemic-related restrictions and vaccines, but also people dealing with migration, including, prominently, the journalist Stavros Malichudis.
National developments and positions

One day after further details implicating high-ranking officials became known, the Secretary General (SG) to the Prime Minister, Grigoris Dimitriadis, and EYP Director Kontoleon resigned. On 8 August 2022, Prime Minister Kyriakos Mitsotakis acknowledged that the EYP wiretapped Nikos Androulakis, but, despite being responsible for overseeing the EYP, denied having knowledge of these operations and insisted on their legality. The prime minister clarified that Kontoleon was removed for mishandling the issue and that Dimitriadis ‘assumed the objective political responsibility’ by resigning. The prime minister refrained from commenting on the (distinct) Predator phonetapping and left many questions open, including who operates the spyware. He suggested intervening in four areas of the EYP framework.

Aiming to enhance transparency, on 9 August 2022 the government introduced an Act of Legislative Content, which reinstates two-prosecutor authorisation for surveillance operations – previously abolished by SYRIZA in 2018 – and, for the first time, makes an opinion from the competent parliamentary committee mandatory to appoint the EYP Director. Under the new rule, the ruling majority of the oversight committee endorsed the appointment of Themistoklis Demiri as Director of the EYP. The Act does not enhance transparency in all areas, since it does not repeal the March 2021 provision that prevents the ADAE from informing, ex post, surveillance targets about surveillance measures taken for reasons of national security, as in Koukakis’s case. The ADAE president and two staff members consider that the provision, introduced in March 2021 by the ruling party, violates the constitutionally guaranteed right to protection of confidentiality and privacy. Its impact is amplified by the increased use of national security grounds to justify surveillance measures. Androulakis rejected an unofficial government briefing and asked for his file to be forwarded to the supervisory authorities. Former Minister of Justice Michalis Stathopoulos and Professor Evangelos Venizelos consider the surveillance of Androulakis to be illegal.

In addition, Members of the Greek Parliament addressed the scandal in various institutional formations. After Androulakis broke the story, the opposition convened, with the necessary two-fifths quorum, a session of the parliamentary oversight committee on 29 July 2021, as well as two subsequent sessions. The Committee invited the directors of implicated institutions, but many speakers only disclosed sparse information. Echoing spokesperson Oikonomou, the new EYP Director implied that the file on Androulakis’s surveillance may have been destroyed. Journalist Vassilis Lambropoulos considers that, in accordance with the law, the file should not be erased before December 2023. On 6 September 2022, the special parliamentary committee of inquiry, backed by the opposition, began its work. The committee is set to deliver its conclusions within one month.

Various prosecutors, with different remits, have launched investigations into the Koukakis and Androulakis surveillance cases. The ADAE unanimously decided to audit two police directorates and the EYP. On 6 September, the ADAE was scheduled to visit the EYP premises and request the handover of relevant files. Arguably, the ADAE is responsible for the case rather than the Hellenic Data Protection Authority (HDPA).

EU actions and responses

In a response to the Commission, the Greek Permanent Representation to the EU noted that ‘there is no violation of the EU data protection acquis’ and that it was ‘highly debatable’ whether the points raised by the Commission lay within Union competences, but assured its cooperation with the Commission. Reacting to Greece’s letter, the Commission acknowledged Greece’s competence for national security and stated that it continued to collect information on spyware cases and the interplay of EU and national legal frameworks.

After eight spyware-related hearings, the PEGA Committee scheduled, for 8 September 2022, an exchange of views on the use of spyware in Greece. Reportedly, it is reserving the hearing of Androulakis for a later session. It is reported that European Parliament President Roberta Metsola wants the committee to examine the ‘banning’ of such ‘illegal’ practices.

For an overview of possible ways forward and preliminary remarks on EU competences, see the synthesis, summary table 3, and annexes I and II of the EPRS study ‘Europe’s PegasusGate’. Europol Deputy Executive Director Jean-Philippe Lecouffe appeared hesitant to risk straining Europol’s new mandate by launching ex officio investigations into Member State spyware cases, as proposed by Sophie in ’t Veld (Renew, the Netherlands).

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