The EU has legislation to protect data privacy, including General Data Protection Regulation (GDPR), the Law Enforcement Directive, Directive 2013/40/EU on attacks against information systems and the ePrivacy Directive. Where EU law is not applicable, Member States are bound by the guarantees laid down in the European Convention on Human Rights.

The monitoring and enforcement of the EU data protection and privacy rules fall primarily under the competence of the relevant competent national authorities and the courts, without prejudice to the role of the Commission as guardian of the Treaties. The national authorities should use their supervisory powers to thoroughly investigate any allegations regarding spyware and restore citizens’ trust.

The 2022 Rule of Law Report, published on 13 July 2022, indicates that the use of Pegasus and equivalent spyware software was subject to an investigation by the Ombudsperson and judicial proceedings. The Ombudsperson closed its investigation on 18 May 2022 and the judicial proceedings are still ongoing. The Spanish authorities announced the revision of the organic law on the National Intelligence Centre in order to increase judicial and internal controls.

The Commission continues to monitor and gather information, including from Spain, in this regard and is looking forward to the results of the European Parliament Inquiry Committee on this issue.

The Commission is working on a proposal for a European Cyber Resilience Act, which will set out cybersecurity requirements for digital products and ancillary services. This will contribute to making digital products more secure and less vulnerable to spyware attacks.


