The national authorities and the courts should use their powers to thoroughly investigate any allegations regarding the use of spyware surveillance software.

EU Member States are required to ensure under Directive 2013/40/EU on attacks against information systems that cyberattacks such as illegal system interference and illegal interception are punishable as criminal offences. The investigation and prosecution of such offences fall under the responsibility of competent national authorities. The Commission does not have general powers to intervene in individual cases. Likewise, the Commission has no law enforcement powers in criminal matters or the competence to intervene in the day-to-day business of the administration or the judiciary of any Member State.

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.

As pointed out by the Honourable Members, the 2022 Rule of Law Report indicates that the use of Pegasus and equivalent spyware surveillance software was subject to an investigation by the Ombudsperson and to judicial proceedings. The Ombudsperson closed its investigation on 18 May 2022, finding that the Spanish government acted in line with the Constitution. The judicial proceedings are still ongoing. The Commission is aware that the Spanish authorities announced a revision of the organic law on the National Intelligence Centre to increase internal and judicial controls.

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

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