



2022/2077(INI)

30.1.2023

AMENDMENTS

1 - 240

Draft report

Sophia in 't Veld

(PE738.492v03-00)

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))

Amendment 1

Ibán García Del Blanco, Juan Fernando López Aguilar

Motion for a resolution

Citation 2 a (new)

Motion for a resolution

Amendment

— *having regard to the December 2022 study by the European Parliament Policy Department for Citizens' Rights and Constitutional Affairs on The impact of Pegasus on fundamental rights and democratic processes,*

Or. en

Amendment 2

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Citation 2 a (new)

Motion for a resolution

Amendment

— *having regard to the European Parliament resolution of 9 March 2022 on foreign interference in all democratic processes in the European Union, including disinformation (2020/2268(INI)),*

Or. en

Amendment 3

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Citation 2 b (new)

Motion for a resolution

Amendment

— *having regard to the May 2022 European Parliament Policy Department for Citizens' Rights and Constitutional Affairs in-depth analysis on Pegasus and surveillance spyware,*

Or. en

Amendment 4

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Citation 2 c (new)

Motion for a resolution

Amendment

— *having regard to the July 2022 European Parliament Research Service study on Europe's PegasusGate,*

Or. en

Amendment 5

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Citation 2 d (new)

Motion for a resolution

Amendment

— *having regard to the December 2022 European Parliament Policy Department for Citizens' Rights and Constitutional Affairs study on "The use of Pegasus and equivalent surveillance spyware - The existing legal framework in EU Member States for the acquisition and use of Pegasus and equivalent surveillance spyware",*

Or. en

Amendment 6

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Citation 2 e (new)

Motion for a resolution

Amendment

— *having regard to the December 2022 European Parliament Policy Department for Citizens' Rights and Constitutional Affairs study on "Pegasus and the EU's external relations",*

Or. en

Amendment 7

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Henna Virkkunen, Elissavet Vozemberg-Vrionidi, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Citation 3 a (new)

Motion for a resolution

Amendment

— *having regard to article 4 (2) of the Treaty of the European Union which stresses that national security remains the sole responsibility of each Member State;*

Or. en

Amendment 8

Ivo Hristov

Motion for a resolution

Citation 3 a (new)

Motion for a resolution

Amendment

— *having regard to the September 2022 European Commission Proposal for*

Amendment 9

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Henna Virkkunen, Elissavet Vozemberg-Vrionidi, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Citation 3 b (new)

Motion for a resolution

Amendment

— *whereas terrorist groups and organized crime networks benefit from unprecedented access to cutting-edge technologies that allow them to better obscure their activities; whereas law-enforcement and intelligence agencies are struggling to compete with these growing capabilities; whereas spyware technology like Pegasus has been developed with the aim of tackling terrorism and organized crime and counterbalancing the technology used by criminals and terrorists;*

Amendment 10

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Elissavet Vozemberg-Vrionidi, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Citation 3 c (new)

Motion for a resolution

Amendment

— *whereas child abuse and child pornography remain one of the biggest concerns for citizens of the European Union; whereas spyware is well suited to detecting illegal pornographic content and identifying perpetrators and accomplices; whereas Pegasus contributed to dismantling a major*

international paedophile ring, considered as one of the largest cases of sexual abuse of minors ever known, managing to identify suspects across no less than 44 countries worldwide^{1a};

*^{1a} Organized Crime and Anti/Corruption Reporting Project,
<https://www.occrp.org/en/daily/12006-europe-cracks-down-on-global-paedophile-ring> 4 April 2020*

Or. en

Amendment 11

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Elissavet Vozemberg-Vrionidi, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Citation 3 d (new)

Motion for a resolution

Amendment

— *whereas drug trafficking and organized crime continues to threaten the overall security of Europe and the world; whereas spyware is acquired by law-enforcement agencies in drug-trafficking and drug-producing regions to fight organized crime and drug-related; whereas Pegasus had helped Mexican authorities capture the most dangerous drug-trafficker of this era, namely Joaquín Guzmán Loera alias El Chapo^{2a}.*

*^{2a} Antena 3,
https://www.antena3.com/noticias/mundo/pegasus-responsable-detencion-chapo-guzman_2022050462724beca7507a0001f83557.html, 4 May 2022*

Or. en

Amendment 12

Ibán García Del Blanco, Juan Fernando López Aguilar

Motion for a resolution
Subheading -I (new)

Motion for a resolution

Amendment

Reportedly, NSO licenses its software to vetted governments allied with the U.S. and Israel; has refused licensing to some 90 countries owing to human rights concerns; and exports through corporate entities based in Israel, Bulgaria, and Cyprus. NSO claims that licences are limited to a certain number of targets and are geographically constrained.

Or. en

Amendment 13

Ibán García Del Blanco, Juan Fernando López Aguilar

Motion for a resolution
Subheading I

Motion for a resolution

Amendment

The use of spyware in the EU

Or. en

Amendment 14

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Lukasz Kohut

Motion for a resolution
Subheading I a (new)

Motion for a resolution

Amendment

An important element of Parliament's supervisory power is ensured by Article 226 TFEU. It provides a legal basis enabling Parliament to set up a temporary

committee of inquiry. Violations of Union law or maladministration can thus be investigated without affecting the competences of other institutions or bodies.

Or. en

Amendment 15
Emmanouil Fragkos

Motion for a resolution
Subheading I a (new)

Motion for a resolution

Amendment

Or. el

Amendment 16
Ibán García Del Blanco, Juan Fernando López Aguilar

Motion for a resolution
Subheading I a (new)

Motion for a resolution

Amendment

Investigative findings disclose that, in at least one country, the software is licensed based on “surveillance objects and their context”. One licence allows to retrieve data from both the designated device and a limited number of associated devices.

Or. en

Amendment 17
Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Subheading I b (new)

Motion for a resolution

Amendment

On 10 March 2022, at the proposal of the Conference of Presidents, a Parliamentary Committee of Inquiry was established to investigate alleged violations of Union law or misconduct in the use of Pegasus and equivalent spyware. This procedure does not encroach on the competences of national courts or the courts of the Union.

Or. en

Amendment 18

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley

Motion for a resolution Subheading I c (new)

Motion for a resolution

Amendment

A contravention implies illegal conduct, whether in the sense of unlawful acts or omissions by the institutions of the Union or by the institutions of the Member States when implementing Union law.

Or. en

Amendment 19

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution Subheading I d (new)

Motion for a resolution

Amendment

Maladministration means poor or absent administrative action, which occurs, for example, if the principles of good

*administration are not respected.
Examples of maladministration include irregularities and omissions, abuse of power, unfairness, malfunction or incompetence, discrimination, but also avoidable delays, refusal to provide information, negligence and other shortcomings that imply poor application of Union law.*

Or. en

Amendment 20

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

**Motion for a resolution
Subheading I e (new)**

Motion for a resolution

Amendment

On 19 April 2022, the Committee of Inquiry began its working method, which consists of public hearings, missions, consultation of experts, requests for data, evidence, and research.

Or. en

Amendment 21

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

**Motion for a resolution
Subheading I f (new)**

Motion for a resolution

Amendment

Article 2 TEU declares that the Union exists on respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights including minorities.

Amendment 22**Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley****Motion for a resolution****Subheading I g (new)***Motion for a resolution**Amendment*

Various definitions exist as to what constitutes surveillance spyware equivalent to Pegasus, which is developed and marketed worldwide by the Israeli company NSO Group. In the decision of 10 March 2022 setting up this committee of inquiry, equivalent surveillance spyware is defined as surveillance spyware that "is installed on mobile devices by exploiting IT vulnerabilities". For the purposes of this inquiry, "cyber-surveillance items" as defined in Article 2 (20) of the Dual-use regulation should also be taken into account, namely "cyber-surveillance items means dual-use items specially designed to enable the covert surveillance of natural persons by monitoring, extracting, collecting or analysing data from information and telecommunication systems". For the purposes of this inquiry, the term "spyware" as defined in the proposed Media Freedom Act should be also taken into account, namely "spyware is any product with digital elements that is specifically designed to exploit vulnerabilities in other products with digital elements and enables the covert surveillance of natural or legal persons by monitoring, extracting, collecting or analysing data from such products or from the natural or legal persons using such products, in particular by secretly recording conversations or otherwise using the microphone of a terminal device, filming natural persons, machines or their surroundings, copying messages,

taking photographs, tracking browsing activities, tracking geolocation, collecting other sensor data or tracking activities across multiple terminals, without the natural or legal person concerned being specifically informed and having given their explicit specific consent".

Or. en

Amendment 23

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Lukasz Kohut

Motion for a resolution Subheading I h (new)

Motion for a resolution

Amendment

Surveillance spyware tools are designed to secretly turn electronic devices, such as mobile phones, laptops, and computers, into 24-hour surveillance devices with complete and unrestricted access to all sensors and information within the targeted device. In particular, Pegasus surveillance spyware is capable of collecting vast amounts of data stored or processed by the target system. It is extremely difficult to detect and its intrusions are hard to prove. Pegasus exploits vulnerabilities in mobile phones of pre-identified individuals across countries, does not require the involvement of providers of electronic communications services, and combines a variety of electronic surveillance tools. Once the software has infiltrated the system, it disables protection mechanisms and security updates. The infected device then transmits the collected data back to a Pegasus Data Server at the client's premises, and it enables operators to read text messages, track calls, collect passwords, track locations, access and record microphone and camera devices, and harvest information from apps

without being noticed by the target. It is also technically possible to impersonate the targeted person by gaining access to their digital credentials and identity.

Or. en

Amendment 24

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Lukasz Kohut

Motion for a resolution

Subheading I i (new)

Motion for a resolution

Amendment

Or. en

Amendment 25

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley

Motion for a resolution

Subheading I j (new)

Motion for a resolution

Amendment

Or. en

Amendment 26

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley

Motion for a resolution

Subheading I k (new)

Motion for a resolution

Amendment

Several Member States have deployed surveillance technologies by invoking national security, which, according to Article 4(2) TEU, "remains the exclusive competence of each EU Member State".

Or. en

Amendment 27

Hannes Heide, Thijs Reuten, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

**Motion for a resolution
Subheading I l (new)**

Motion for a resolution

Amendment

The lack of a common definition of national security in the Member States or in Union law poses a challenge to preventing and remedying breaches or maladministration in the implementation of Union law resulting from the use of Pegasus and equivalent surveillance espionage software.

Or. en

Amendment 28

Hannes Heide, Thijs Reuten, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley

**Motion for a resolution
Subheading I m (new)**

Motion for a resolution

Amendment

The national legal frameworks of several Member States, in particular the interpretation of the standards relating to secrecy and confidentiality, constitute a

major obstacle to the investigation by this committee of inquiry of alleged breaches of Union law or maladministration in the implementation of Union law in relation to the use of Pegasus and equivalent spyware.

Or. en

Amendment 29

Hannes Heide, Thijs Reuten, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution

Subheading I n (new)

Motion for a resolution

Amendment

Refers in this context to the Proposal of the European Parliament of 23 May 2012 for a Regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of enquiry and repealing Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission (2009/2212(INI))1), which has been blocked by the Council since 2012. Article 9 of the above-mentioned resolution states that the institutions and bodies of the Union and the national authorities of the Member States, acting in conformity with provisions of Union and national law, shall assist the committee of inquiry in carrying out its tasks in accordance with the principle of sincere cooperation. It is regrettable that there has not been any advancement on this Proposal for a Regulation from the side of the Council.

Or. en

Amendment 30

Hannes Heide, Thijs Reuten, Nikos Androulakis, Costas Mavrides, Demetris Papadakis,

Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Ivo Hristov, Katarina Barley, Łukasz Kohut

Motion for a resolution
Subheading I o (new)

Motion for a resolution

Amendment

In the vast majority of Member States, laws regulate intelligence services with a legal framework, often with provisions on the organisation and functioning of these services as well as their mandates and powers, including their means of action and conditions for using them- and oversight mechanisms that include executive control, parliamentary oversight, expert bodies, and judicial review. Yet, concerns have been raised on certain countries regarding their permissive intelligence frameworks, ineffective checks and lax oversight practices.

Or. en

Amendment 31

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution
Paragraph 1

Motion for a resolution

Amendment

1. The use of *commercial spyware* in Poland first came to the *broad* attention of the public in December 2021. *Its dangers can only be wholly understood in its full context.* Commercial spyware *is not merely a technical instrument used in isolation and in random situations. It is an integral and vital part of a system designed specifically for the unfettered surveillance and control of citizens. The legal, institutional and political building blocks of this system were purposefully and methodically put together to create a*

1. The use of *Pegasus by the Special Services* in Poland first came to the attention of the public in December 2021. *The use of this highly intrusive commercial spyware has to be seen in the full context of the rule of law crisis in Poland that started in 2015 when Law and Justice (PiS)-led government started to dismantle the judicial system and has since systematically taken over the most important institutions in the country, installing party loyalists in all strategic offices; these include: Mariusz Kamiński,*

coherent and highly effective framework. The complete image of this carefully planned system only becomes visible by connecting the dots.

Minister of Interior and Administration and Special Services Coordinator; and Maciej Wąsik, Secretary of the Special Services College (both sentenced for extorting court approvals to conduct operational control in the period of 2006-2009 when they led the Central Anti-Corruption Bureau; pardoned by President Andrzej Duda in 2015); as well as Zbigniew Ziobro, Minister of Justice who is also Prosecutor General, despite repeated recommendations in the Commission's annual Rule of Law reports to separate these two offices in order to ensure functional independence of the prosecution service from the government. The evidence demonstrates that Pegasus has been deployed against outspoken critics and opponents of the Law and Justice-led government for political gain, which constitutes an abuse of power.

Or. en

Amendment 32

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 1**

Motion for a resolution

1. The use of commercial spyware in Poland first *came to the broad attention of the public* in December 2021. *Its dangers can only be wholly understood in its full context. Commercial spyware is not merely a technical instrument used in isolation and in random situations. It is an integral and vital part of a system designed specifically for the unfettered surveillance and control of citizens. The legal, institutional and political building blocks of this system were purposefully and methodically put together to create a coherent and highly effective framework. The complete image of this carefully*

Amendment

1. The use of commercial spyware in Poland was first *publicized by the opposition and anti-government media* in December 2021. *It should be noted that legal changes in the field of operational control and surveillance made by the Law and Justice government in 2016 clarified the existing regulations, tightening up the court control and making services' power more transparent. When issuing a surveillance permit, the court receives all the relevant information needed to assess the situation and may request additional information in case of any doubts.^{1a}*

planned system only becomes visible by connecting the dots.

^{1a} Source: Letter of August 8, 2022 from the Polish Minister of Special Services Coordinator Mariusz Kamiński to the Chair of the Pega Committee in response to the invitation to the hearing.

Or. en

Amendment 33

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 1

Motion for a resolution

1. The use of commercial spyware in Poland first came to the broad attention of the public in December 2021. Its dangers can only be wholly understood in its full context. Commercial spyware is not merely a technical instrument used in isolation and in random situations. It is an integral and vital part of a system designed specifically for the unfettered surveillance and control of citizens. The legal, institutional and political building blocks of this system were purposefully and methodically put together to create a coherent and highly effective framework. The complete image of this carefully planned system only becomes visible by connecting the dots.

Amendment

1. The use of commercial spyware in Poland first came to the broad attention of the public in December 2021. Its dangers can only be wholly understood in its full context. Commercial spyware is not merely a technical instrument used in isolation and in random situations. It is an integral and vital part of a system designed specifically for the unfettered surveillance and control of citizens ***and, above all, for the purpose of maintaining power.*** The legal, institutional and political building blocks of this system were purposefully and methodically put together to create a coherent and highly effective framework. The complete image of this carefully planned system only becomes visible by connecting the dots.

Or. pl

Amendment 34

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 2

2. ***The scope for legal surveillance in Poland has been expanded to the near unlimited. The rights of victims have been minimised and legal remedy has been rendered meaningless in practice. Effective ex-ante and ex-post scrutiny, as well as independent oversight, have been all but eliminated. Members of the Polish government and party loyalists control, directly or indirectly, the main positions within the system. The information harvested with spyware is used in smear campaigns against government critics and opposition, through the government-controlled state media. All safeguards have been eliminated, the government parties have full control and victims have nowhere to turn.***

deleted

Or. fr

Amendment 35

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Paragraph 2

2. The scope ***for*** legal surveillance in Poland ***has been expanded to the near unlimited***. The rights of victims have been minimised and legal remedy has been rendered meaningless in practice. Effective ex-ante and ex-post scrutiny, as well as independent oversight, have been ***all but*** eliminated. Members of the ***Polish*** government and party loyalists control, directly or indirectly, the main positions within the system. The information harvested with spyware is used in smear campaigns against government critics and opposition, through the government-

2. ***Despite a drastic expansion of*** the scope ***of*** legal surveillance in Poland ***with the adoption of several acts in 2016, the use of Pegasus and equivalent spyware remains illegal under existing law due to its intrusive capabilities, such as a possibility to interfere with the data on the infected device. In the course of these legislative changes,*** the rights of victims have been minimised and legal remedy has been rendered meaningless in practice. Effective ex-ante and ex-post scrutiny, as well as independent oversight, have been ***de facto*** eliminated. Members of the ***Law***

controlled state media. All safeguards have been *eliminated*, the government parties *have* full control *and* victims have *nowhere to turn*.

and Justice-led government and party loyalists control, directly or indirectly, the main positions within the system. The information harvested with spyware is used in smear campaigns against government critics and opposition, through the government-controlled state media. All safeguards have been *removed, giving* the government parties full control *while* victims have *no redress mechanism at their disposal*.

Or. en

Amendment 36

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution Paragraph 2

Motion for a resolution

2. The scope for legal surveillance in Poland has been *expanded to the near unlimited. The rights of victims have been minimised and legal remedy has been rendered meaningless in practice.* Effective ex-ante and ex-post scrutiny, as well as *independent oversight, have been all but eliminated. Members of the Polish government and party loyalists control, directly or indirectly, the main positions within the system. The information harvested with spyware is used in smear campaigns against government critics and opposition, through the government-controlled state media. All safeguards have been eliminated, the government parties have full control and victims have nowhere to turn.*

Amendment

2. The scope for legal surveillance in Poland has been *precisely defined, among others through the above-mentioned legal changes introduced by Law and Justice.* Effective ex-ante and ex-post scrutiny, as well as *precise procedures guarantee the application of legal surveillance in a proportionate manner and minimize the risk of abuse in this respect.*

Or. en

Amendment 37

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution
Paragraph 2

Motion for a resolution

2. The scope for legal surveillance in Poland has been expanded to the near unlimited. The rights of victims have been minimised and legal remedy has been rendered meaningless in practice. Effective ex-ante and ex-post scrutiny, as well as independent oversight, have been all but eliminated. Members of the Polish government and party loyalists control, directly or indirectly, the main positions within the system. The information harvested with spyware is used in smear campaigns against government critics and opposition, through the government-controlled state media. All safeguards have been eliminated, the government parties have full control and victims have nowhere to turn.

Amendment

2. ***Although Pegasus is an illegal tool under the Polish legal system,*** the scope for legal surveillance in Poland ***using Pegasus and similar software*** has been expanded to the near unlimited. The rights of victims have been minimised and legal remedy has been rendered meaningless in practice. Effective ex-ante and ex-post scrutiny, as well as independent oversight, have been all but eliminated. Members of the Polish government and party loyalists control, directly or indirectly, the main positions within the system. The information harvested with spyware is used in smear campaigns against government critics and opposition, through the government-controlled state media. All safeguards have been eliminated, the government parties have full control and victims have nowhere to turn.

Or. pl

Amendment 38
Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution
Paragraph 3

Motion for a resolution

3. ***In November of 2016, Former Prime Minister and current MEP Beata Szydło, and former Foreign Minister Witold Waszczykowski, attended dinner at the home of then Israeli Prime Minister Benjamin Netanyahu². The following year in July, Szydło and Netanyahu met with the heads of governments of the Visegrad Group countries. They allegedly discussed ‘strengthening cooperation in the area of innovation and high technologies’ and***

Amendment

deleted

‘issues related to the broadly understood security of citizens’³. Not long after this meeting took place in 2017, Pegasus was acquired by the Polish government following a meeting between Prime Minister Mateusz Morawiecki, Hungarian Prime Minister Viktor Orbán and Netanyahu⁴. Despite initial denials, in January 2022 PiS leader Jarosław Kaczyński confirmed the purchase of spyware by the Polish government⁵⁶⁷.

² *Gazeta,*
<https://wiadomosci.gazeta.pl/wiadomosci/7,114884,28052298,jak-polska-kupila-pegasusa-nyt-kolacja-beaty-szydlo-z-premierem.html> , 29 January 2022.

³ *Gazeta,*
<https://wiadomosci.gazeta.pl/wiadomosci/7,114884,28052298,jak-polska-kupila-pegasusa-nyt-kolacja-beaty-szydlo-z-premierem.html> , 29 January 2022.

⁴ *Financieele Dagblad, ‘De wereld deze week: het beste uit de internationale pers.’*
7 January, 2022.

⁵ *Financieele Dagblad, ‘Liberalen Europarlement eisen onderzoek naar spionagesoftware’*, 12 January 2022.

⁶ *Politico,*
<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/> , 7 January 2022.

⁷ *Financial Times,*
<https://www.ft.com/content/d8231ec7-5c44-42fc-b32e-30b851f1c25e> , 8 February 2022.

Or. fr

Amendment 39
Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution
Paragraph 3

3. ***In November of 2016, Former Prime Minister and current MEP Beata Szydło, and former Foreign Minister Witold Waszczykowski, attended dinner at the home of then Israeli Prime Minister Benjamin Netanyahu². The following year in July, Szydło and Netanyahu met with the heads of governments of the Visegrad Group countries. They allegedly discussed ‘strengthening cooperation in the area of innovation and high technologies’ and ‘issues related to the broadly understood security of citizens’³. Not long after this meeting took place in 2017, Pegasus was acquired by the Polish government following a meeting between Prime Minister Mateusz Morawiecki, Hungarian Prime Minister Viktor Orbán and Netanyahu⁴. Despite initial denials, in January 2022 PiS leader Jarosław Kaczyński confirmed the purchase of spyware by the Polish government^{5 6 7}.***

3. In January 2022 PiS leader Jarosław Kaczyński confirmed the purchase of spyware by the Polish government⁶.

² *Gazeta*,
<https://wiadomosci.gazeta.pl/wiadomosci/7,114884,28052298,jak-polska-kupila-pegasusa-nyt-kolacja-beaty-szydlo-z-premierem.html>, 29 January 2022.

³ *Gazeta*,
<https://wiadomosci.gazeta.pl/wiadomosci/7,114884,28052298,jak-polska-kupila-pegasusa-nyt-kolacja-beaty-szydlo-z-premierem.html>, 29 January 2022.

⁴ *Financieele Dagblad*, ‘*De wereld deze week: het beste uit de internationale pers.*’ 7 January, 2022.

⁵ *Financieele Dagblad*, ‘*Liberalen Europarlement eisen onderzoek naar spionagesoftware*’, 12 January 2022.

⁶ Politico,
<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/>, 7 January 2022.

⁶ Politico,
<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/>, 7 January 2022.

⁷ *Financial Times*,
<https://www.ft.com/content/d8231ec7-5c44-42fc-b32e-30b851f1c25e> , 8
February 2022.

Or. en

Amendment 40
Lukas Mandl

Motion for a resolution
Paragraph 3

Motion for a resolution

3. ***In November of 2016, Former Prime Minister and current MEP Beata Szydło, and former Foreign Minister Witold Waszczykowski, attended dinner at the home of then Israeli Prime Minister Benjamin Netanyahu². The following year in July, Szydło and Netanyahu met with the heads of governments of the Visegrad Group countries. They allegedly discussed ‘strengthening cooperation in the area of innovation and high technologies’ and ‘issues related to the broadly understood security of citizens’³. Not long after this meeting took place in 2017, Pegasus was acquired by the Polish government following a meeting between Prime Minister Mateusz Morawiecki, Hungarian Prime Minister Viktor Orbán and Netanyahu⁴. Despite initial denials, in January 2022 PiS leader Jarosław Kaczyński confirmed the purchase of spyware by the Polish government^{5 6 7}.***

Amendment

3. In 2017, Pegasus was acquired by the Polish government. ***This acquisition was allegedly preceded by several unconfirmed meetings with other heads of state.*** Despite initial denials, PiS leader Jarosław Kaczyński confirmed the purchase of ***spy software*** by the Polish government ***in January 2022*** ^{6 7}.

² *Gazeta*,
<https://wiadomosci.gazeta.pl/wiadomosci/7,114884,28052298,jak-polska-kupila-pegasusa-nyt-kolacja-beaty-szydlo-z-premierem.html> , 29 January 2022.

³ *Gazeta*,
<https://wiadomosci.gazeta.pl/wiadomosci/7,114884,28052298,jak-polska-kupila-pegasusa-nyt-kolacja-beaty-szydlo-z-premierem.html>

premierem.html , 29 January 2022.

⁴ *Financieele Dagblad*, ‘*De wereld deze week: het beste uit de internationale pers.*’
7 January, 2022.

⁵ *Financieele Dagblad*, ‘*Liberalen Europarlement eisen onderzoek naar spionagesoftware*’, 12 January 2022.

⁶ Politico,
<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/> , 7 January 2022.

⁷ *Financial Times*,
<https://www.ft.com/content/d8231ec7-5c44-42fc-b32e-30b851f1c25e> , 8 February 2022.

Or. en

Amendment 41

Róża Thun und Hohenstein, Dragoş Tudorache, Marcel Kolaja

Motion for a resolution

Paragraph 3 a (new)

Motion for a resolution

Amendment

3 a. The purchase of Pegasus was not financed through the regular budget of the CBA, but through the "Justice fund", whose function is to provide assistance to victims and witnesses, crime prevention and post-penitentiary assistance^{1a 1b}. The original regulations of this fund do not allow it to be used for financing operations of the special services^{1c 1d}. However, a motion to change the financial plan of the Justice Fund was presented to the Sejm Public Finance Committee by Michał Woś, the Deputy Minister of Justice. Woś is a close associate of Minister of Justice Zbigniew Ziobro, who also holds the position of Prosecutor General. The MPs approved this change, but reported subsequently that they had no idea that it was about purchasing Pegasus for the CBA, given

that ‘during the committee meeting, not a single word was said about it.

^{1a} Article 4 § 2 of Executive Penal Code of the Republic of Poland.

^{1b} The Guardian, ‘More Polish opposition figures found to have been targeted by Pegasus spyware’, 17 February, 2022; European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 26; Rzeczpospolita, <https://www.rp.pl/polityka/art19250101-gazeta-wyborcza-jak-kupowano-pegasusa-dla-cba>, 3 January 2022

^{1c} Article 4 § 8 of Executive Penal Code of the Republic of Poland.

^{1d} Business Insider, <https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1>, 18 January 2022

Or. en

Amendment 42

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Gwendoline Delbos-Corfield, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 3 a (new)

Motion for a resolution

Amendment

3 a. By 2018, rumours were already circulating about Pegasus, and subsequently it was discovered that the earliest case of its use dates back to March 2018^{7a}. The CEO and owner of Cross Media PR agency, Andrzej Dlugosz, was the first victim. It was discovered that he was hacked at least 61 times by November 2019^{7b}. TVN24 journalist Robert Zielinski also began reporting about the use of Pegasus in Poland in

September 2018. Subsequently, the Ombudsman requested more information from the authorities, but the effort was in vain. At that time, the government continued to deny purchasing the spyware.

^{7a} European Parliament Mission Report on the Mission to Poland of the Committee of Inquiry to Investigate the Use of Pegasus and Equivalent Spyware at pg. 3.

^{7b} European Parliament Mission Report on the Mission to Poland of the Committee of Inquiry to Investigate the Use of Pegasus and Equivalent Spyware at pg. 3.

Or. en

Amendment 43
Sophia in 't Veld

Motion for a resolution
Paragraph 3 a (new)

Motion for a resolution

Amendment

3 a. *By 2018, rumours were already circulating about Pegasus, and subsequently it was discovered that the earliest case of its use dates back to March 2018^{1a}. The CEO and owner of Cross Media PR agency, Andrzej Dlugosz, was the first victim. He was allegedly hacked at least 61 times by November 2019^{1b}. TVN24 journalist Robert Zielinski also began reporting about the use of Pegasus in Poland in September 2018. Subsequently, the Ombudsman requested more information from the authorities, but the effort was in vain. At that time, the government continued to deny purchasing the spyware.*

1a European Parliament Mission Report on the Mission to Poland of the Committee of Inquiry to Investigate the Use of Pegasus and Equivalent Spyware at pg. 3.

1b European Parliament Mission Report on the Mission to Poland of the Committee of Inquiry to Investigate the Use of Pegasus and Equivalent Spyware at pg. 3.

Or. en

Amendment 44

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

**Motion for a resolution
Paragraph 3 a (new)**

Motion for a resolution

Amendment

3 a. According to Amnesty International and Wyborcza, the phone of the former Deputy Minister of the Treasury, Paweł Tamborski, was hacked with Pegasus in February 2018. On the same day, the Anti-Central Corruption Bureau detained him as well as five former officials of the ministry and market analysts, who were accused of underestimating the market value of CIECH chemicals company in exchange for bribes. The court did not agree for arrest and ordered their release.

Or. en

**Amendment 45
Sophia in 't Veld**

**Motion for a resolution
Paragraph 3 b (new)**

Motion for a resolution

Amendment

3 b. Former Chief of the Polish Supreme Audit Office (NIK) and current independent Senator Krzysztof Kwiatkowski provided crucial testimony regarding the purchase of Pegasus to the Senate Extraordinary Committee on Cases of Surveillance Using the Pegasus System in January 2022^{1a}. Having been released from the secrecy requirement associated with his position, Kwiatkowski provided the committee with invoices discovered by the NIK regarding the purchase of Pegasus^{1b}. Kwiatkowski further testified that the NIK had discovered accounts from the National Bank of Poland certifying the transfer in a 2018 investigation^{1c}. The invoices show that the spyware was purchased for the Polish Central Anti-Corruption Bureau (CBA) from NSO Group.

^{1a} *Business Insider*,
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> ,18 January 2022.

^{1b} *Business Insider*,
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> ,18 January 2022.

^{1c} *The Wire*,
<https://thewire.in/world/poland-audit-office-invoice-pegasus-purchase-reopen-investigation> , 4 January 2022; *Business Insider*,
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> ,18 January 2022

Or. en

Amendment 46

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution

Subheading 3 a (new)

Motion for a resolution

Amendment

Former Chief of the Polish Supreme Audit Office (NIK) and current independent Senator Krzysztof Kwiatkowski provided crucial testimony regarding the purchase of Pegasus to the Senate Extraordinary Committee on Cases of Surveillance Using the Pegasus System in January 2022^{7c}. Having been released from the secrecy requirement associated with his position, Kwiatkowski provided the committee with invoices discovered by the NIK regarding the purchase of Pegasus^{7d}. Kwiatkowski further testified that the NIK had discovered accounts from the National Bank of Poland certifying the transfer in a 2018 investigation. The invoices show that the spyware was purchased for the Polish Central Anti-Corruption Bureau (CBA) from NSO Group^{7e}.

^{7c} *Business Insider,*
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> , 18 January 2022.

^{7d} *Business Insider,*
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> , 18 January 2022.

^{7e} *The Wire,*
<https://thewire.in/world/poland-audit-office-invoice-pegasus-purchase-reopen-investigation> , 4 January 2022. and
Business Insider,
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> , 18 January 2022.

Or. en

Amendment 47
Sophia in 't Veld

Motion for a resolution
Paragraph 3 c (new)

Motion for a resolution

Amendment

3 c. Matic Sp. z o.o., an IT and Defence Systems company based in Warsaw, was used as a proxy company through which the CBA carried out this purchase^{1a}. The sole shareholder of Matic is the company 2CH and Ewa Chabros-Chromińska owns 60% of the shares in 2CH^{1b}. Both Ewa and her brother, Jerzy Chabros, who served as an official of Matic between 2010-2016 as well as 2CH for a time, have multiple files under their names at the Institute of National Remembrance^{1c}. The Institute conducts research into crimes committed against the Polish State during the communist period^{1d}. According to their records, Ewa Chabros-Chromińska and Jerzy Chabros served in the former Citizen's Militia (MO) in the Polish People's Republic as well as the former Secret Police of the Polish People's Republic (SB)^{1e}.

^{1a} *Gazeta Wyborcza*,
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

^{1b} *Gazeta Wyborcza*,
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022

^{1c} *Gazeta Wyborcza*,
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

^{1d} <https://ipn.gov.pl/en/about-the-institute>

^{1e} *Gazeta Wyborcza*,
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html>

Amendment 48

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Gwendoline Delbos-Corfield, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 3 b (new)

Motion for a resolution

Amendment

3 b. *Matic Sp. z o.o., an IT and Defence Systems company based in Warsaw, was used as a proxy company through which the CBA carried out this purchase. The sole shareholder of Matic is the company 2CH and Ewa Chabros-Chromińska owns 60% of the shares in 2CH. Both Ewa and her brother, Jerzy Chabros, who served as an official of Matic between 2010-2016 as well as 2CH for a time, have multiple files under their names at the Institute of National Remembrance^{7f}. The Institute conducts research into crimes committed against the Polish State during the communist period^{7g}. According to their records, Ewa Chabros-Chromińska and Jerzy Chabros served in the former Citizen's Militia (MO) in the Polish People's Republic as well as the former Secret Police of the Polish People's Republic (SB)^{7h}.*

^{7f} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html>

^{7g} <https://ipn.gov.pl/en/about-the-institute>

^{7h} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January

2022.

Or. en

Amendment 49

**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Marcel Kolaja,
Gwendoline Delbos-Corfield**
on behalf of the Verts/ALE Group

**Motion for a resolution
Paragraph 3 c (new)**

Motion for a resolution

Amendment

3 c. Matic became a joint-stock company immediately after the purchase of Pegasus in November 2017 and operates with a license from the Ministry of Internal Affairs for trading in technologies with the security services, police, and in the arms trade according to Wyborcza^{1a}. The company is also in possession of a special licensing certificate from the Internal Security Agency, with the latest one issued in 2019, that will allow it to keep certain confidential information secret until the end of the decade^{1b}.

^{1a} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

^{1b} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

Or. en

**Amendment 50
Sophia in 't Veld**

Motion for a resolution
Paragraph 3 d (new)

Motion for a resolution

Amendment

3 d. Matic became a joint-stock company immediately after the purchase of Pegasus in November 2017 and operates with a license from the Ministry of Internal Affairs for trading in technologies with the security services, police, and in the arms trade according to Wyborcza^{1a}. The company is also in possession of a special licensing certificate from the Internal Security Agency, with the latest one issued in 2019, that will allow it to keep certain confidential information secret until the end of the decade^{1b}.

^{1a} *Gazeta Wyborcza, <https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022*

^{1b} *Gazeta Wyborcza, <https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.*

Or. en

Amendment 51

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Gwendoline Delbos-Corfield, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 3 d (new)

Motion for a resolution

Amendment

3 d. Adam Chrominski holds the most important role as the President of the management board of 2CH. Formerly, he was the President of both Matic Sp. z o. o.

and Matic SA, but is now serving only as an official representative of Matic SA. The Ministry of Internal Affairs issued their licenses and permission in his name^{7k}. Chrominski has also been linked closely with Ewa Chabros-Chrominska. She shares his last name and has owned shares in a Warsaw villa with Chrominski for decades^{7l}.

^{7k} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

^{7l} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

Or. en

Amendment 52
Sophia in 't Veld

Motion for a resolution
Paragraph 3 e (new)

Motion for a resolution

Amendment

3 e. *Adam Chrominski holds the most important role as the President of the management board of 2CH. Formerly, he was the President of both Matic Sp. z o.o. and Matic SA, but is now serving only as an official representative of Matic SA. The Ministry of Internal Affairs issued their licenses and permission in his name^{1a}. Chrominski has also been linked closely with Ewa Chabros-Chrominska. She has owned shares in a Warsaw villa with Chrominski for decades^{1b}.*

^{1a} *azeta Wyborcza,*
<https://wyborcza.pl/7,75398,28007064,kup>

ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html , 17 January 2022.

^{1b} *Gazeta Wyborcza*, <https://wyborcza.pl/7,75398,28007064,kup-ili-pegasusa-dla-pis-i-wzieli-miliony-rodzinna-firma-ludzi.html> , 17 January 2022.

Or. en

Amendment 53
Sophia in 't Veld

Motion for a resolution
Paragraph 3 f (new)

Motion for a resolution

Amendment

3 f. *The purchase of Pegasus was not financed through the regular budget of the CBA, but through the "Justice fund", meant for victims of crime^{1a}. The original regulations of this fund do not allow it to be used for financing operations of the special services^{1b}. However, a motion to change the financial plan of the Justice Fund was presented to the Sejm Public Finance Committee by Michał Woś, the Deputy Minister of Justice^{1c}. Woś is a close associate of Minister of Justice Zbigniew Ziobro, who also holds the position of Prosecutor General^{1d}. The MPs approved this change, but reported subsequently that they had no idea that it was about purchasing Pegasus for the CBA, given that ‘during the committee meeting, not a single word was said about it’^{1e}.*

^{1a} *The Guardian*, ‘More Polish opposition figures found to have been targeted by Pegasus spyware’, 17 February, 2022; *The Guardian*, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022; *European Commission Rule of Law 2022 Report*,

Poland Specific Chapter,
https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf
at pg. 26; *Gazeta Wyborcza,*
<https://www.rp.pl/polityka/art19250101-gazeta-wyborcza-jak-kupowano-pegasusa-dla-cba> , 3 January 2022

^{1b} *Business Insider,*
<https://businessinsider.com.pl/wiadomosci/kwiatkowski-ujawnil-faktury-za-zakup-pegasusa/qyx3zs1> ,18 January 2022

^{1c} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,27970483,z-dystansem-patrze-na-te-panike-wos-w-polskim-radiu-o-pegasusie.html> ,
4 January 2022; *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,27966080,jak-ziobro-kupowal-pegasusa-dla-cba.html> , 3
January 2022

^{1d} *Gazeta Wyborcza,*
<https://wyborcza.pl/7,75398,27970483,z-dystansem-patrze-na-te-panike-wos-w-polskim-radiu-o-pegasusie.html> , 4
January 2022.

^{1e} <https://polishnews.co.uk/pegasus-reports-of-surveillance-and-backstage-of-the-purchase-themis-judges-association-on-a-possible-breach-of-the-law-appeal-to-appoint-a-commission-of-inquiry/> , 4
January 2022.

Or. en

Amendment 54

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 3 e (new)

Motion for a resolution

Amendment

3 e. The purchase of Pegasus was not financed through the regular budget of the CBA, but through the "Justice fund",

meant for victims of crime. The original regulations of this fund do not allow it to be used for financing operations of the special services. However, a motion to change the financial plan of the Justice Fund was presented to the Sejm Public Finance Committee by Michał Woś, the Deputy Minister of Justice. Woś is a close associate of Minister of Justice Zbigniew Ziobro, who also holds the position of Prosecutor General. The MPs approved this change, but reported subsequently that they had no idea that it was about purchasing Pegasus for the CBA, given that ‘during the committee meeting, not a single word was said about it’.

Or. en

Amendment 55
Sophia in 't Veld

Motion for a resolution
Paragraph 3 g (new)

Motion for a resolution

Amendment

3 g. Woś also applied to the Ministry of Finance for consent to re-allocate the PLN 25 million that was spent on Pegasus from the Justice Fund to ‘other activities’ aimed at ‘combating the effects of crime’^{1a}. The Deputy Minister then signed for the transfers from the Justice Fund to the CBA^{1b}. However, upon being asked in January 2022, Woś initially denied having any knowledge of the Pegasus tool itself, let alone its purchase by the state^{1c}, but he has since confirmed the purchase^{1d}. It is unclear how the running costs for the use of Pegasus have been funded.

^{1a} *Gazeta Wyborcza, <https://wyborcza.pl/7,75398,27966080,jak-ziobro-kupowal-pegasusa-dla-cba.html> , 3 January 2022*

1b

ONET, <https://wiadomosci.onet.pl/kraj/wiceminister-michal-wos-nie-wiem-co-to-jest-pegasus/e9fbrvh> , 3 January 2022; *Gazeta Wyborcza*, <https://wyborcza.pl/7,75398,27970483,zdystansem-patrze-na-te-panike-wos-w-polskim-radiu-o-pegasusie.html> , 4 January 2022.

^{1c} *Gazeta Wyborcza*, <https://wyborcza.pl/7,75398,27970483,zdystansem-patrze-na-te-panike-wos-w-polskim-radiu-o-pegasusie.html> , 4 January 2022; DW, <https://www.dw.com/en/who-hacked-polands-opposition/a-60332256> , 1 May 2022

^{1d} *Gazeta Wyborcza*, <https://wyborcza.pl/7,75398,27970483,zdystansem-patrze-na-te-panike-wos-w-polskim-radiu-o-pegasusie.html> , 4 January 2022.

Or. en

Amendment 56

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Gwendoline Delbos-Corfield, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 3 f (new)

Motion for a resolution

Amendment

3 f. Woś also applied to the Ministry of Finance for consent to re-allocate the PLN 25 million that was spent on Pegasus from the Justice Fund to ‘other activities’ aimed at ‘combating the effects of crime’. The Deputy Minister then signed for the transfers from the Justice Fund to the CBA. However, upon being asked in January 2022, Woś initially denied having any knowledge of the Pegasus tool itself, let alone its purchase by the state, but he has since confirmed the purchase. It is

unclear how the running costs for the use of Pegasus have been funded.

Or. en

Amendment 57

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Gwendoline Delbos-Corfield, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 3 g (new)

Motion for a resolution

Amendment

3 g. *It has been reported that in total, NSO Group has sold to 14 countries in Europe thus far. However, NSO has also conceded that it has revoked the licenses of two such countries. It is highly possible that Poland was included as one of these two countries in light of their breach of the NSO terms of use; however, this has not been confirmed. It is not known if the Polish authorities have purchased another brand of spyware.*

Or. en

Amendment 58
Sophia in 't Veld

Motion for a resolution
Paragraph 3 h (new)

Motion for a resolution

Amendment

3 h. *It has been reported that in total, NSO Group has sold to 14 countries in Europe thus far. However, NSO has also conceded that it has revoked the licenses of two such countries^{1a}. It is highly possible that Poland was included as one of these two countries in light of their breach of the NSO terms of use; however, this has not been confirmed.*

^{1a} Discussion with NSO Group, Mission of the Committee of Inquiry to Investigate the use of Pegasus and Equivalent Surveillance Spyware to Israel, July 2022.

Or. en

Amendment 59
Sophia in 't Veld

Motion for a resolution
Paragraph 3 i (new)

Motion for a resolution

Amendment

3 i. In January 2023, the Polish Ombudsman sent a letter to the Minister of Internal Affairs stating that there is no legal basis for the use of Pegasus or similar spyware in Poland, invoking the case law from the Polish Constitutional Court as well as case law from the European Court of Human Rights^{1a}.

^{1a} PEGA Committee meeting, 19 January 2023

Or. en

Amendment 60
Róża Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution
Subheading 4 a (new)

Motion for a resolution

Amendment

Constitutional Context

Or. en

Amendment 61

Motion for a resolution
Paragraph 4

Motion for a resolution

4. In 2014, the Constitutional Tribunal conducted a review of the Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the **Polish** Constitution⁸. The Tribunal concluded by issuing a judgement containing specific recommendations and an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced legislative changes. However, the resulting Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court¹⁰. Instead, the 2016 Police Act has weakened the already lackluster provisions that do not protect the rights of citizens or create proper oversight and compounded the ever-growing distance between the Polish legislature and the rule of law.

Amendment

4. In 2014, the Constitutional Tribunal conducted a review of the **1990** Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the Constitution **of Poland**⁸. The Tribunal concluded by issuing a judgement containing specific recommendations and an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced legislative changes. However, the resulting Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court¹⁰. Instead, the 2016 Police Act has weakened the already lackluster provisions that do not protect the rights of citizens or create proper oversight and compounded the ever-growing distance between the Polish legislature and the rule of law.

The scope of surveillance and operational control was vastly expanded, weakening or removing safeguards and oversight provisions. Broadening statutes in this systematic and targeted manner under domestic law keeps the legal basis for surveillance firmly in contravention with EU law, the 2014 ruling of the Constitution of Poland and the fundamental rights of the Polish citizens expressed in, i.a. art. 2 (principle of rule of law), art. 31 (protection of individual freedom, principle of proportionality), art. 47 (protection of private life), art. 49 (freedom and privacy of communication) of the Constitution of Poland, as well as in art. 8 of the European Convention on Human Rights (right to respect private and family life). In this way, unlawful surveillance is thus legalised. The law of

the ruler has replaced the rule of law.

⁸ Venice Commission Report June 2016, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e).

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<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-zapomoca-srodkow-technicznych-w-dzialani>

¹⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

⁸ Venice Commission Report June 2016, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e).

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<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-zapomoca-srodkow-technicznych-w-dzialani>

¹⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 62

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution

Paragraph 4

Motion for a resolution

4. In 2014, the Constitutional Tribunal conducted a review of the Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the Polish Constitution⁸. The Tribunal concluded by issuing a judgement containing specific recommendations and an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced legislative changes. ***However, the resulting Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court¹⁰. Instead, the 2016 Police Act has***

Amendment

4. In 2014, the Constitutional Tribunal conducted a review of the Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the Polish Constitution. The Tribunal concluded by issuing a judgement containing specific recommendations and an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced ***appropriate*** legislative changes¹⁰.

weakened the already lackluster provisions that do not protect the rights of citizens or create proper oversight and compounded the ever-growing distance between the Polish legislature and the rule of law.

⁸ *Venice Commission Report June 2016*, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e).

⁹
<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-za-pomoca-srodkow-technicznych-w-dzialani>

¹⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

⁹
<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-za-pomoca-srodkow-technicznych-w-dzialani>

¹⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 63

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski

Motion for a resolution Paragraph 4

Motion for a resolution

4. In 2014, the Constitutional Tribunal conducted a review of the Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the Polish Constitution⁸. The Tribunal concluded by issuing a judgement containing specific recommendations and an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced legislative changes. However, the resulting

Amendment

4. In 2014, the Constitutional Tribunal conducted a review of the Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the Polish Constitution. The Tribunal concluded by issuing a judgement containing specific recommendations and an 18-month timeline within which legislative changes were to be implemented. Following the 2015 elections, the new government introduced legislative changes. However, the resulting

Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court¹⁰. Instead, the 2016 Police Act has weakened the already *lackluster* provisions that **do not protect the** rights of citizens **or create** proper oversight **and** compounded the ever-growing distance between the Polish legislature and the rule of law.

Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court. Instead, the 2016 Police Act has weakened the already *existing* provisions that **in themselves neither had sufficiently protected** the rights of citizens **nor created** proper oversight. **The new provisions** compounded the ever-growing distance between the Polish legislature **in this area** and the rule of law.

⁸ *Venice Commission Report June 2016*, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e).

⁹

<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-za-pomoca-srodkow-technicznych-w-dzialani>

¹⁰ *Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c*, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 64 Sophia in 't Veld

Motion for a resolution Paragraph 4

Motion for a resolution

4. In 2014, the Constitutional Tribunal conducted a review of the Police Act and other existing laws governing surveillance of citizens that were deemed incompatible with the Polish Constitution⁸. The Tribunal concluded by issuing a judgement containing specific recommendations and

Amendment

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an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced legislative changes. However, the resulting Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court¹⁰. Instead, the 2016 Police Act has weakened the already lackluster provisions that do not protect the rights of citizens or create proper oversight and compounded the ever-growing distance between the Polish *legislature* and the rule of law.

⁸ Venice Commission Report June 2016, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e).

⁹

<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-za-pomoca-srodkow-technicznych-w-dzialani>

¹⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

an 18-month timeline within which legislative changes were to be implemented⁹. Following the 2015 elections, the new government introduced legislative changes. However, the resulting Act of 15 January 2016 Amending the 1990 Police Act and Certain Other Acts (hereinafter the 2016 Police Act) did not rectify any of the gaps in the law, as was required by the Constitutional Court¹⁰. Instead, the 2016 Police Act has weakened the already lackluster provisions that do not protect the rights of citizens or create proper oversight and compounded the ever-growing distance between the Polish *legislation* and the rule of law.

⁸ Venice Commission Report June 2016, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e).

⁹

<https://trybunal.gov.pl/en/hearings/judgments/art/8821-okreslenie-katalogu-zbieranych-informacji-o-jednostce-za-pomoca-srodkow-technicznych-w-dzialani>

¹⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 65

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 4 a (new)

Motion for a resolution

Amendment

4 a. In particular, the 2016 opinion of the Venice Commission on the Police Act and other legislation should be the starting point for current debates on the

observance of citizens' rights in the activities of the special services in Poland. The Venice Commission recommended that Poland, among other things, strengthen its adherence to the principle of proportionality, prohibit in the Police Act the monitoring of communications that are clearly covered by legal professional privilege, limit the duration of metadata checks, complement the prior consent system for 'classic' wiretapping and operational monitoring with additional procedural safeguards in the form of a 'privacy advocate', a complaints system, and an ex-post oversight system by an independent authority, and ensure, with regard to metadata collected under Article 20c of the Police Act, an effective oversight mechanism by an independent authority.

Or. pl

Amendment 66

Róża Thun und Hohenstein, Dragoş Tudorache, Marcel Kolaja

Motion for a resolution

Paragraph 4 a (new)

Motion for a resolution

Amendment

4 a. Since 2015, the Poland's legal system has been in state of a permanent constitutional crisis related to the attacks on the separation of powers and the right to access court and legal protection ^{1a}. The crisis involves dysfunctions and politicization of key institutions such as the Constitutional Tribunal (responsible primarily for judicial review of legislation); National Council of the Judiciary of Poland (with the main function of participating in judicial nominations), the Supreme Court (which holds the supervision of jurisdiction of all ordinary and military courts), as well as ordinary, administrative and military

courts and public prosecution.

^{1a} In-depth description of crisis: Sadurski, W. (2019). Poland's constitutional breakdown. Oxford University Press.

Or. en

Amendment 67
Sophia in 't Veld

Motion for a resolution
Paragraph 4 a (new)

Motion for a resolution

Amendment

4 a. The scope for surveillance and so-called operational control was vastly expanded, weakening or removing safeguards and oversight provisions. Broadening statutes in this systematic and targeted manner under domestic law keeps the legal basis for surveillance firmly in contravention with EU law, the 2014 ruling of the Polish Constitutional Court and the fundamental rights of the Polish citizens. In this way, unlawful surveillance is legalised. The law of the ruler has replaced the rule of law.

Or. en

Amendment 68
Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 4 a (new)

Motion for a resolution

Amendment

4 a. The scope for surveillance and so-called operational control was vastly expanded, weakening or removing

safeguards and oversight provisions. Broadening statutes in this systematic and targeted manner under domestic law keeps the legal basis for surveillance firmly in contravention with EU law, the 2014 ruling of the Polish Constitutional Court and the fundamental rights of the Polish citizens. In this way, unlawful surveillance is thus legalised. The law of the ruler has replaced the rule of law.

Or. en

Amendment 69

Róża Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution

Paragraph 4 b (new)

Motion for a resolution

Amendment

4 b. *The crisis started in 2015-2016 when the newly elected PiS-led government ignored the election of 3 constitutional judges during the previous term of the Parliament and, illegally, elected new members of the Constitutional Tribunal for the already occupied judicial positions. Then, at the end of 2016, judges nominated by PiS got a majority of votes in the Tribunal and elected, in a legally questionable procedure, its new president Julia Przylebska, who admits herself to maintaining friendly personal relationships with the PiS Leader Jarosław Kaczyński. From 2017 on, the Tribunal issues verdicts which are in line with the ruling party's expectations, including those questioning the constitutionality of the European Treaties and ECJ's decisions concerning the rule of law in Poland ^{1a}. Among the judges of Tribunal are now, i.a., former MPs representing PiS who were responsible for the controversial laws concerning court system Stanisław Piotrowicz and Krystyna Pawłowicz, former candidate of PiS for the Mayor of Szczecin Bartłomiej*

Sochański and former Deputy General Prosecutor, associate of Zbigniew Ziobro, Bogdan Świączkowski. The Tribunal is not recognized as independent body by European Court of Human Rights, which in decision Xero Flor v. Poland claimed that the Tribunal, in which the illegally elected judges are sitting, does not meet the criteria to be acknowledged as 'the tribunal established by law' in light of the ECHR's judicature ^{1b}. Polish opposition parties in the Parliament ceased to file motions for the assessment of accordance with the Constitution of the adopted laws. Ordinary and administrative courts stopped asking preliminary questions to the Constitutional Tribunal. To compare – in 2015 - 135 questions were submitted by the courts ^{1c}, while in 2021 only 14 ^{1d}. Public Prosecutor's Office in Poland was among the first public services targeted by the government within its so-called "reform of the justice system" commenced in 2015. Prosecutors underline excess of work, blurred responsibility for decisions, fear of disciplinary consequences, including for engagement in the professional associations and unions (Prosecutor Krzysztof Parchimowicz, co-founder of the Prosecutors' Association Lex Super Omnia, since its establishment in 2017 has been demoted three rungs to a job he last held 30 years ago^{1e}) and finally political dependence of the service resulting from amalgamation of the position of Minister of Justice and National Prosecutor .

^{1a} ***E.g. Constitutional Tribunal Judgment of 12 October 2021, K 3/21.
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210001852/O/D20211852.pdf>***

^{1b} ***European Court of Human Rights Judgment of 7 May 2021, 4907/18,
[https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-210065%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-210065%22]})***

^{1c} ***Annual Report of Constitutional***

Tribunal, 2015.

<https://orka.sejm.gov.pl/Druki8ka.nsf/0/733563C2E4108F15C1257FA4002FF70B/%24File/470.pdf>

1st Annual Report of Constitutional Tribunal, 2021.

<https://orka.sejm.gov.pl/Druki9ka.nsf/0/6243DBC698A8A522C1258939003DE993/%24File/2945.pdf>

1^e

<https://foreignpolicy.com/2019/10/11/poland-is-purging-its-prosecutors/>

Or. en

Amendment 70

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 4 b (new)

Motion for a resolution

Amendment

4 b. In its opinion on the 2016 Police Act, the Venice Commission unequivocally states that ‘...procedural safeguards and material conditions set in the Police Act for implementing secret surveillance are still insufficient to prevent its excessive use and unjustified interference with the privacy of individuals’. Moreover, the lack of specificity regarding oversight, guarantees against abuse, and the categories of persons and crimes that could be targeted also violate the judgements of the European Court of Human Rights (ECtHR). In particular, in the judgement of the Roman Zakharov v. Russia case in 2015, the Court examined the need for clarity regarding the use of spyware. It was held that in relation to secret surveillance of citizens there is a necessity for strict criteria, proper judicial oversight, immediate destruction of

irrelevant data, judicial scrutiny over urgency procedures and a requirement for the notification of victims. In summary, the Court stated that much of the provisions in Russian domestic law do not provide 'adequate and effective guarantees against arbitrariness and the risk of abuse'. Moreover, the Court explicitly stated that it would be 'contrary to the rule of law' if discretion regarding secret surveillance was concentrated entirely with the executive of the judiciary. The 2016 Police Act that remains in effect in Poland in no way reflects this ruling of the Court. In fact, its provisions are in direct contravention with much of the judgement.

Or. en

Amendment 71
Sophia in 't Veld

Motion for a resolution
Paragraph 4 b (new)

Motion for a resolution

Amendment

4 b. *In its opinion on the 2016 Police Act, the Venice Commission unequivocally states that '...procedural safeguards and material conditions set in the Police Act for implementing secret surveillance are still insufficient to prevent its excessive use and unjustified interference with the privacy of individuals'^{1a}. Moreover, the lack of specificity regarding oversight, guarantees against abuse, and the categories of persons and crimes that could be targeted also violate the judgements of the European Court of Human Rights (ECtHR)^{1b}. In particular, in the judgement of the Roman Zakharov v. Russia case in 2015, the Court examined the need for clarity regarding the use of spyware. It was held that in relation to secret surveillance of citizens*

there is a necessity for strict criteria, proper judicial oversight, immediate destruction of irrelevant data, judicial scrutiny over urgency procedures and a requirement for the notification of victims^{1c}. Moreover, the Court explicitly stated that it would be ‘contrary to the rule of law’ if discretion regarding secret surveillance was concentrated entirely with the executive of the judiciary^{1d}. The 2016 Police Act that remains in effect in Poland in no way reflects this ruling of the Court. In fact, its provisions are indirect contravention with much of the judgement.

^{1a} Opinion No. 839/2016 on the act of 15 January 2016 amending the Police Act and certain other acts, adopted by the Venice Commission at its 107th plenary session, 10-11 June 2016

^{1b} See, inter alia, Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39; Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40; Prado Bugallo v. Spain, no. 58496/00, § 30, 18 February 2003; Liberty and others v. United Kingdom, no. 58243/00, § 62, 1 July 2008

^{1c} Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39.

^{1d} Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39 at pp. 229 and 230. See also Venice Commission Report June 2016, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e) at pg. 11.

Or. en

Amendment 72

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 4 b (new)

Motion for a resolution

Amendment

4 b. Another pillar of privacy reform in the police and special services sector, alongside the creation of an independent oversight body, is the granting of the individual the right to be informed about being a person of interest to authorised institutions and the right of access to the personal data they process.

Or. pl

Amendment 73

Róża Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution

Paragraph 4 c (new)

Motion for a resolution

Amendment

4 c. In 2018 the crisis spilled over into two key institutions of the judicial branch in Poland, i.e. the Supreme Court and National Council of Judiciary. In the Supreme Court a controversial Disciplinary Chamber was established, composed in majority of former prosecutors loyal to the Minister of Justice, and granted a monopoly to adjudicate in disciplinary cases of judges. In 2018-2022 the Chamber issued numerous controversial decisions suspending judges who, in their verdicts, reviewed officials' actions. In a 2021 decision the European Court of Justice ruled that the Chamber failed to guarantee independence and impartiality^{1a}. In effect, the Chamber was abolished in 2022, but replaced by the Chamber of Professional Responsibility, which is still criticized by Polish lawyers, as it is partially composed of the judges nominated with participation of the politicized National Council of Judiciary. Moreover, there is a growing number of

such judges in other chambers of the Court, including the new First President of the Supreme Court - Małgorzata Manowska, who used to serve as Deputy Minister of Justice during the first term of PiS government in 2005-2007.

^{1a} ECJ Judgment of 15 July 2021, C-791/19.

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=244185&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&cid=191730>

Or. en

Amendment 74
Sophia in 't Veld

Motion for a resolution
Paragraph 4 c (new)

Motion for a resolution

Amendment

4 c. The ECtHR has also been unequivocal in its stance on the necessity test, meaning that the act of surveillance must be of sufficient importance to necessitate such an invasion of privacy. Its judgement in the Klass and others v. Germany case in 1978 outlined this point clearly, and held that no matter the system of surveillance, the Court must be satisfied that there exists ‘adequate and effective guarantees against abuse’^{1a}. The carefully orchestrated destruction of checks and balances in Poland show the evident defiance of the Courts by the ruling party. Despite all of this, the PiS led government insist that existing provisions are sufficient, and they are operating strictly inside the law.

^{1a} Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40.

Amendment 75

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 4 c (new)

Motion for a resolution

Amendment

4 c. The ECtHR has also been unequivocal in its stance on the necessity test, meaning that the act of surveillance must be of sufficient importance to necessitate such an invasion of privacy. Its judgement in the Klass and others v. Germany case in 1978 outlined this point clearly, and held that no matter the system of surveillance, the Court must be satisfied that there exists ‘adequate and effective guarantees against abuse’. The blatant corruption and carefully orchestrated destruction of checks and balances in Poland show the evident defiance of the Courts by the ruling party. Despite all of this, the PiS led government insist that existing provisions are sufficient, and they are operating strictly inside the law.

Or. en

Amendment 76

Róża Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution

Paragraph 4 d (new)

Motion for a resolution

Amendment

4 d. To conclude, the effects of the ongoing constitutional crisis are as follows: independent constitutional review of law has been eliminated; judges are

elected with participation of a politically nominated National Council of Judiciary, the Supreme Court is dominated by the judges nominated in such politicized procedure, disciplinary procedure for judges is politically biased, public Prosecutor's Office is used for political purposes.

In effect, legal protection of Polish citizens is significantly weakened. On the other hand, thanks to the resistance of the majority of Polish judges and lawyers to political influence and active protests against the politicization of the judiciary, numerous judgments and decisions are still not in line with the political will of the ruling party.

In the context of the illegal use of spyware, it should be noted that, dismantling of the system of checks and balances, as mentioned above, was organised in a very systemic and gradual way. It allowed ruling majority to use with impunity, through special agencies, spyware, against political opponents or independent professionals defending the rule of law, and later to deprive the victims of a possibility to obtain redress and justice.

Or. en

Amendment 77

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Subheading 5

Motion for a resolution

Anti-Terrorism Law 2016

Amendment

Police Act and Anti-Terrorism Law 2016

Or. en

Amendment 78

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 5

Motion for a resolution

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 that it dubs the ‘anti-terrorism law’. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general *is responsible for ordering* the destruction of non-relevant materials *and*, Zbigniew Ziobro, *the PiS* Minister of Justice, *currently* holds *that office*^{12 13}.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Amendment

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 that it dubs the ‘anti-terrorism law’. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general *has the power to order* the destruction of non-relevant materials. *Given the fact that* Zbigniew Ziobro, *who is also* Minister of Justice, holds *this position, there are serious concerns that his decisions are not taken independently and without ulterior motives*^{12 13}.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Or. en

Amendment 79

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution Paragraph 5

Motion for a resolution

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 that it dubs the ‘anti-terrorism law’. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials *and, Zbigniew Ziobro, the PiS Minister of Justice, currently holds that office*^{12 13}.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ *EDRI*, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Amendment

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 that it dubs the ‘anti-terrorism law’. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials¹².

¹¹ Act of 10 June 2016 on Anti-terrorism Operations,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

Or. en

Amendment 80

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 5

Motion for a resolution

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 *that it dubs the ‘anti-terrorism law’*. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials and, Zbigniew Ziobro, the *PiS* Minister of Justice, currently holds that office¹²¹³.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Amendment

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials and, Zbigniew Ziobro, the Minister of Justice, currently holds that office¹²¹³.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Or. fr

Amendment 81

Róża Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution

Paragraph 5

Motion for a resolution

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 that it *dubs* the ‘*anti-terrorism law*’. *The articles of the Act stipulate* that non-Polish citizens can be monitored without *their* consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials and, Zbigniew Ziobro, the PiS Minister of Justice, currently holds that office^{12 13}.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Amendment

5. In addition to the 2016 Police Act, the Polish government also adopted a law governing the surveillance of foreign citizens in 2016 that it *dubbed* the ‘*Anti-Terrorism law*’. *It stipulates* that non-Polish citizens can be monitored without *Court's* consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. *According to the Art. 9.8. of the Act*, the Prosecutor General is responsible for ordering the destruction of non-relevant materials and, Zbigniew Ziobro, the PiS Minister of Justice, currently holds that office^{12 13}.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Or. en

Amendment 82
Sophia in 't Veld

Motion for a resolution
Paragraph 5

Motion for a resolution

5. In addition to the 2016 Police Act, the *Polish government* also adopted a law

Amendment

5. In addition to the 2016 Police Act, the *Sejm* also adopted a law governing the

governing the surveillance of foreign citizens in 2016 that it dubs the ‘anti-terrorism law’. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials and, Zbigniew Ziobro, the PiS Minister of Justice, currently holds that office^{12 13}.

surveillance of foreign citizens in 2016 that it dubs the ‘anti-terrorism law’. The articles of the Act stipulate that non-Polish citizens can be monitored without their consent for a period of three months if their identity is ‘doubtful’, including through wire-tapping of phones, collection of fingerprints, biometric photos and DNA, and the obligation to register pre-paid phone cards¹¹. The prosecutor general is responsible for ordering the destruction of non-relevant materials and, Zbigniew Ziobro, the PiS Minister of Justice, currently holds that office^{12 13}.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹¹ Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹² Act of 10 June 2016 on Anti-terrorism Operations, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000904/T/D20160904L.pdf>.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

¹³ EDRI, <https://edri.org/our-work/poland-adopted-controversial-anti-terrorism-law/>, 29 June 2016.

Or. en

Amendment 83

Róża Thun und Hohenstein, Dragoş Tudorache, Marcel Kolaja

Motion for a resolution

Paragraph 6

Motion for a resolution

6. In July 2015, the Act Amending the Code of Criminal Procedure was introduced in Poland to ensure that illegally obtained evidence could not be included in criminal proceedings. However, the Act was later rewritten in

Amendment

6. In July 2015, the Act Amending the Code of Criminal Procedure was introduced in Poland to ensure that illegally obtained evidence could not be included in criminal proceedings. However, the Act was later rewritten in

March 2016 in order to include Article 168a¹⁴. This addition now ensures that evidence gathered in violation of the law, or ‘fruit of the poisonous tree’, such as information harvested through the use of Pegasus, is eligible to be introduced before the court¹⁵.

March 2016 in order to include Article 168a¹⁴. This addition now ensures that evidence gathered in violation of the law, or ‘fruit of the poisonous tree’, such as information harvested through the use of Pegasus, is eligible to be introduced before the court¹⁵. ***However, it must be added that the judgment of the Supreme Court of Poland indicated in its judgment that this article cannot be applied in contradiction with the provisions of the European Convention on Human Rights and the Constitution of Poland, which in some cases limits its effective application^{1a}. There have also been issued judgments in which Article 168a has been found partially unconstitutional^{1b}. Nevertheless, the presence of this provision in the legal system raises uncertainty when it comes to respect of fundamental rights.***

¹⁴ Act of 11 March 2016 amending the Act - Code of Criminal Procedure and certain other acts
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000437/T/D20160437L.pdf>

¹⁵ <https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>

^{1a} e.g. *Judgment of the Supreme Court of Poland of 26 June 2019, IV KK 328/18.*

^{1b} e.g. *Judgment of the Court of Appeal in Wroclaw of 27 April 2017, II AKa 216/16.*

¹⁴ Act of 11 March 2016 amending the Act - Code of Criminal Procedure and certain other acts
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000437/T/D20160437L.pdf>

¹⁵ <https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>

Or. en

Amendment 84

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 6

Motion for a resolution

6. In July 2015, the Act Amending the Code of Criminal Procedure was introduced in Poland to ensure that illegally obtained evidence could not be included in criminal proceedings. However, the Act was *later* rewritten in March 2016 in order to include Article 168a¹⁴. This addition now ensures that evidence gathered in violation of the law, *or* ‘fruit of the poisonous tree’, such as information harvested through the use of Pegasus, is eligible to be *introduced before the court*¹⁵.

¹⁴ Act of 11 March 2016 amending the Act - Code of Criminal Procedure and certain other acts
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000437/T/D20160437L.pdf>

¹⁵ <https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>

Amendment

6. In July 2015, the Act Amending the Code of Criminal Procedure was introduced in Poland to ensure that illegally obtained evidence could not be included in criminal proceedings. However, *after Law and Justice came to power*, the Act was rewritten in March 2016 in order to include Article 168a¹⁴. This addition now ensures that evidence gathered in violation of the law - ‘fruit of the poisonous tree’ - such as information harvested through the use of Pegasus, is eligible to be *used in criminal proceedings*¹⁵.

¹⁴ Act of 11 March 2016 amending the Act - Code of Criminal Procedure and certain other acts
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000437/T/D20160437L.pdf>

¹⁵ <https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>

Or. en

Amendment 85

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 6**

Motion for a resolution

6. In July 2015, the Act Amending the Code of Criminal Procedure was introduced in Poland to ensure that illegally obtained evidence could not be included in criminal proceedings.

Amendment

6. In July 2015, the Act Amending the Code of Criminal Procedure was introduced in Poland to ensure that illegally obtained evidence could not be included in criminal proceedings.

However, the Act was later rewritten in March 2016 in order to include Article 168a¹⁴. This addition now *ensures that* evidence gathered in violation of the law, or ‘fruit of the poisonous tree’, *such as information harvested through the use of Pegasus*, is eligible to be introduced before the court¹⁵.

¹⁴ Act of 11 March 2016 amending the Act - Code of Criminal Procedure and certain other acts
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000437/T/D20160437L.pdf>

¹⁵ <https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>

However, the Act was later rewritten in March 2016 in order to include Article 168a¹⁴. This addition now *defines the situations in which* evidence gathered in violation of the law, or ‘fruit of the poisonous tree’, is eligible to be introduced before the court.

¹⁴ Act of 11 March 2016 amending the Act - Code of Criminal Procedure and certain other acts
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000437/T/D20160437L.pdf>

Or. en

Amendment 86

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Subheading 7

Motion for a resolution

Telecommunications Law *of 16 July 2004*

Amendment

Telecommunications Law

Or. en

Amendment 87

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Paragraph 7

7. The law governing telecommunications in Poland includes provisions **for** the Police to gain access to **telecommunication data for free** and in certain cases without the participation of employees¹⁶. **This can be done under the vague justification of ‘discovering crimes’**. The prosecutor then decides how to proceed **on** receipt of this data, **and indeed is given a significant amount of power in the Act, which is a political decision, given that Ziobro is in that role**^{17 18}.

7. **After the 2016 amendment to the Telecommunications Act of 2004**, the law governing telecommunications in Poland includes provisions **allowing** the Police to gain access to **metadata free of charge** and in certain cases without the participation of employees **of the telecommunication companies**¹⁶. **Such access can be obtained under a very broad justification of ‘prevention or detection of crimes’**. The prosecutor then decides how to proceed **upon the** receipt of this data. **This however cannot be regarded as a safeguard, given the fact that through merging of the role of Minister of Justice and that of Prosecutor General, the prosecution service cannot be considered as independent from the executive**^{17 18}.

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004>.

¹⁷ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

¹⁸ Helsinki Foundation for Human Rights, https://www.hfhr.pl/wp-content/uploads/2016/05/HFHR_hand_out_Venice_Commission_Act_on_Police_FN_L.pdf, 28 April 2016 at pg. 18 [hereinafter HFHR Report].

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004>.

¹⁷ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

¹⁸ Helsinki Foundation for Human Rights, https://www.hfhr.pl/wp-content/uploads/2016/05/HFHR_hand_out_Venice_Commission_Act_on_Police_FN_L.pdf, 28 April 2016 at pg. 18 [hereinafter HFHR Report].

Or. en

Amendment 88

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 7**

Motion for a resolution

7. The law governing telecommunications in Poland includes provisions for the Police to gain access to telecommunication data for free and in certain cases without the participation of employees¹⁶. This can be done under the *vague* justification of ‘discovering crimes’. ***The prosecutor then decides how to proceed on receipt of this data, and indeed is given a significant amount of power in the Act, which is a political decision, given that Ziobro is in that role***^{17 18}.

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004>.

¹⁷ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

¹⁸ ***Helsinki Foundation for Human Rights, https://www.hfhr.pl/wp-content/uploads/2016/05/HFHR_hand_ou t_Venice_Commission_Act_on_Police_F NL.pdf, 28 April 2016 at pg. 18 [hereinafter HFHR Report].***

Amendment

7. The law governing telecommunications in Poland includes provisions for the Police to gain access to telecommunication data for free and in certain cases without the participation of employees¹⁶. This can be done ***only*** under the justification of discovering crimes.¹⁷

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004>.

¹⁷ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 89

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 7

Motion for a resolution

7. The law governing telecommunications in Poland includes provisions for the Police to gain access to

Amendment

7. The law governing telecommunications in Poland includes provisions for the Police to gain access to

telecommunication data for free and in certain cases without the participation of employees¹⁶. This can be done under the vague justification of ‘discovering crimes’. The prosecutor then decides how to proceed on receipt of this data, ***and indeed is given a significant amount of power in the Act, which is a political decision, given that Ziobro is in that role***¹⁷¹⁸.

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004>.

¹⁷ *Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c*, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

¹⁸ *Helsinki Foundation for Human Rights*, https://www.hfhr.pl/wp-content/uploads/2016/05/HFHR_hand_out_Venice_Commission_Act_on_Police_FNL.pdf, 28 April 2016 at pg. 18 [hereinafter *HFHR Report*].

telecommunication data for free and in certain cases without the participation of employees¹⁶. This can be done under the vague justification of ‘discovering crimes’. The prosecutor then decides how to proceed on receipt of this data.

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004>.

Or. fr

Amendment 90 **Sophia in 't Veld**

Motion for a resolution **Paragraph 7**

Motion for a resolution

7. The law governing telecommunications in Poland includes provisions for the Police to gain access to telecommunication data ***for free*** and in certain cases without the participation of employees¹⁶. This can be done under the vague justification of ‘discovering crimes’. The prosecutor then decides how to proceed on receipt of this data, and indeed

Amendment

7. The law governing telecommunications in Poland includes provisions for the Police to gain ***free*** access to telecommunication data and in certain cases without the participation of employees¹⁶. This can be done under the vague justification of ‘discovering crimes’. The prosecutor then decides how to proceed on receipt of this data, and indeed

is given a significant amount of power in the Act, which is a political decision, given that Ziobro is in that role^{17 18} .

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004> .

¹⁷ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf> .

¹⁸ Helsinki Foundation for Human Rights, https://www.hfhr.pl/wp-content/uploads/2016/05/HFHR_hand_out_Venice_Commission_Act_on_Police_FN_L.pdf , 28 April 2016 at pg. 18 [hereinafter HFHR Report].

is given a significant amount of power in the Act, which is a political decision, given that Ziobro is in that role^{17 18} .

¹⁶ Telecommunications Act of 16 July 2004 <https://www.dataguidance.com/legal-research/telecommunications-act-16-july-2004> .

¹⁷ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf> .

¹⁸ Helsinki Foundation for Human Rights, https://www.hfhr.pl/wp-content/uploads/2016/05/HFHR_hand_out_Venice_Commission_Act_on_Police_FN_L.pdf , 28 April 2016 at pg. 18 [hereinafter HFHR Report].

Or. en

Amendment 91

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Paragraph 7 a (new)

Motion for a resolution

Amendment

7 a. Act implementing Law Enforcement Directive

Poland has not implemented properly the Law Enforcement Directive 2016/680, which requires specific standards for the collection and processing of personal data by the police and other services. The Law Enforcement Directive was implemented into Polish law by the 2018 Act on the protection of personal data processed in connection with the prevention and combating of crime. The Act has significantly extended the scope of

grounds foreseen in the Directive for refusing to notify individuals of the processing of their data and disregarded mechanism provided for in Article 17 of the Directive, giving the individuals a possibility to exercise their power through supervisory authority - in Poland, the President of the Office for Personal Data Protection. Furthermore, the Act provides for a significant carve-out for national security, including implementation of statutory tasks by various agencies of the security forces ^{19a}. The European Commission should assess the compatibility of these provision with the EU law and if necessary start an infringement procedure.

*^{19a} Adam Bodnar et al, How to saddle Pegasus: Observance of civil rights in the activities of security services: objectives of the reform, September 2019
[https://bip.brpo.gov.pl/sites/default/files/HOW%20TO%20SADDLE%20PEGASUS%20\(OSIOD%C5%81A%C4%86%20PEGAZA\).pdf](https://bip.brpo.gov.pl/sites/default/files/HOW%20TO%20SADDLE%20PEGASUS%20(OSIOD%C5%81A%C4%86%20PEGAZA).pdf)*

Or. en

Amendment 92

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 7 a (new)

Motion for a resolution

Amendment

7 a. The abovementioned amendment to the Code of Criminal Procedure to allow “fruit of the poisonous tree” has had a significant impact on the importance of the telecommunications operators and the data those companies store. In Poland, the biggest telecommunications providers have to go

so far as to have a dedicated team that responds to the requesting for wiretapping from the authorities, but usually do not have much insight on the content of wiretapping or more details connected with a specific case.

Or. en

Amendment 93
Sophia in 't Veld

Motion for a resolution
Paragraph 7 a (new)

Motion for a resolution

Amendment

7 a. *The abovementioned amendment to the Code of Criminal Procedure to allow “fruit of the poisonous tree” has had a significant impact on the importance of the telecommunications operators and the data those companies store. In Poland, the biggest telecommunications providers have to go so far as to have a dedicated team that responds to the requesting for wiretapping from the authorities, but usually do not have much insight on the content of wiretapping or more details connected with a specific case^{1a}.*

1a

*https://www.europarl.europa.eu/doceo/document/PEGA-CR-736647_EN.pdf; *The Guardian*,
<https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware> , 17 February 2022;
<https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>;
https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf*

at pg. 16-17.

Or. en

Amendment 94

Róża Thun und Hohenstein, Dragoş Tudorache, Marcel Kolaja

Motion for a resolution

Paragraph 7 a (new)

Motion for a resolution

Amendment

7 a. The abovementioned amendment to the Code of Criminal Procedure to allow processual use of the “fruit of the poisonous tree” has had a significant impact on telecommunications operators and data those companies retain. In Poland, the biggest telecommunications providers have to go so far as to have a dedicated team that responds to the requesting for wiretapping from the authorities ^{1a}.

1a

https://www.europarl.europa.eu/doceo/document/PEGA-CR-736647_EN.pdf; The Guardian, <https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware> , 17 February 2022; <https://palestra.pl/en/palestra/issue/5-2016/article/article-168a-of-the-polish-criminal-procedure-code-as-a-permission-to-use-illegally-obtained-evidence-in-criminal-proceedings>; https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 16-17.

Or. en

Amendment 95 **Sophia in 't Veld**

Motion for a resolution
Paragraph 7 b (new)

Motion for a resolution

Amendment

7 b. The Polish authorities have accessed the telecommunication data of Polish citizens at least 1.82 million times in 2021^{1a}. In addition, the Sejm, in particular members of the PiS party are currently drafting an electronic communications law. This law would make it easier for the authorities to access emails and social media messages of Polish citizens. Providers would have to store emails and messages on their servers so that relevant courts could order for the access to data, IP addresses and the content of the messages^{1b}.

^{1a} *Euractiv. Polish government working on controversial surveillance bill.*
<https://www.euractiv.com/section/politics/news/polish-government-working-on-controversial-surveillance-bill/>

^{1b} *Euractiv. Polish government working on controversial surveillance bill.*
<https://www.euractiv.com/section/politics/news/polish-government-working-on-controversial-surveillance-bill/>

Or. en

Amendment 96
Róża Thun und Hohenstein, Dragoş Tudorache, Marcel Kolaja

Motion for a resolution
Paragraph 8

Motion for a resolution

Amendment

8. Although surveillance requires judicial authorisation ***in principle in Poland, in practice*** the authorisation procedure ***no longer serves*** as a safeguard against abuse, but rather ***as a means*** to

8. Although, ***as a rule***, surveillance ***in Poland*** requires judicial authorisation, the ***existing*** authorisation procedure ***does not serve*** as a safeguard against abuse, but rather to grant a veneer of legality to

grant a veneer of legality to surveillance for political purposes. It has not been made explicitly clear whether *any of the victims* of Pegasus *to date were spied on with* judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary, sometimes excluding even the most basic details regarding the *target* (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.

surveillance *used* for political purposes. *It must be admitted that the system of judicial authorisation did not work effectively even before the current governing majority came to power and requires a thorough procedural and organizational revision described in the report written by experts affiliated to the Poland's Commissioner for Human Rights in 2019*^{1a}. It has not been made explicitly clear *until today* whether *the use* of Pegasus *for surveillance was subject of* judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary, sometimes excluding even the most basic details regarding the *targeted person* (name, profession, the crime of which he/she is suspected), and *description of* the surveillance methods to be used.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

^{1a} „*HOW TO SADDLE PEGASUS: Observance of civil rights in the activities of security services: objectives of the reform, Warsaw, September 2019*, [https://bip.brpo.gov.pl/sites/default/files/HOW%20TO%20SADDLE%20PEGASUS%20\(OSIOD%C5%81A%C4%86%20PEGAZA\).pdf](https://bip.brpo.gov.pl/sites/default/files/HOW%20TO%20SADDLE%20PEGASUS%20(OSIOD%C5%81A%C4%86%20PEGAZA).pdf)

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Amendment 97

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution
Paragraph 8

Motion for a resolution

8. ***Although*** surveillance requires judicial authorisation in principle in Poland, ***in practice the authorisation procedure no longer serves as a safeguard against abuse, but rather as a means to grant a veneer of legality to surveillance for political purposes.*** It has not been ***made explicitly clear whether any of*** the victims of Pegasus to date were spied on ***with*** judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges ***only have*** the information ***provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted***²⁰. ***The information is often merely a summary, sometimes excluding even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.***

Amendment

8. Surveillance requires judicial authorisation in principle in Poland. It has not been ***proven that*** the victims of Pegasus to date were spied on ***without*** judicial authorisation. ***Moreover, it has not been proven that the Polish services were behind individual cases of alleged surveillance.***

Applications for judicial authorisation of a surveillance operation are submitted by the special services. For the assessment of the application, judges ***they receive all*** the information ***necessary for a realistic assessment of the situation. In case any doubts, they can ask for additional justification.***

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>
f.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>
f.

Or. en

Amendment 98

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 8

Motion for a resolution

8. ***Although*** surveillance requires judicial authorisation in ***principle in Poland, in practice the authorisation procedure no longer serves as a safeguard against abuse, but rather as a means to grant a veneer of legality to surveillance for political purposes. It has not been made explicitly clear*** whether any of the victims of Pegasus to date were spied on with judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary, sometimes excluding even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art.

Amendment

8. Surveillance requires judicial authorisation in ***Poland. However, there is still some doubt as to*** whether any of the victims of Pegasus to date were spied on with judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary, sometimes excluding even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art.

20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. fr

Amendment 99

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 8

Motion for a resolution

8. Although surveillance requires judicial authorisation in principle in Poland, in practice the authorisation procedure no longer serves as a safeguard against abuse, but rather as a means to grant a veneer of legality to surveillance for political purposes. It has not been made explicitly clear whether any of the victims of Pegasus to date were spied on with judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary, sometimes excluding even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.

Amendment

8. Although surveillance requires judicial authorisation in principle in Poland, in practice the authorisation procedure no longer serves as a safeguard against abuse, but rather as a means to grant a veneer of legality to surveillance for political purposes. It has not been made explicitly clear whether any of the victims of Pegasus to date were spied on with judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor²⁰ who decides what material is relevant to be submitted. The information is often merely a summary, sometimes excluding even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used. ***The lack of decentralisation in the examination of requests in Poland has a significant impact on the quality of***

judicial review of special services requests.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. pl

Amendment 100

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

**Motion for a resolution
Paragraph 8**

Motion for a resolution

8. Although surveillance requires judicial authorisation *in principle* in Poland, in practice the authorisation procedure no longer serves as a safeguard against abuse, but rather as a means to grant a veneer of legality to surveillance for political purposes. It has not been made explicitly clear whether any of the victims of Pegasus to date were spied on with judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary,

Amendment

8. Although *in principle* surveillance requires judicial authorisation in Poland, in practice the authorisation procedure no longer serves as a safeguard against abuse, but rather as a means to grant a veneer of legality to surveillance for political purposes. It has not been made explicitly clear whether any of the victims of Pegasus to date were spied on with judicial authorisation. Applications for judicial authorisation of a surveillance operation are submitted by the special services¹⁹. For the assessment of the application, judges only have the information provided by the applicant (i.e. the special services) at their disposal, and it is the prosecutor who decides what material is relevant to be submitted²⁰. The information is often merely a summary, sometimes excluding

sometimes excluding even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

even the most basic details regarding the target (name, profession, the crime of which he/she is suspected), and the surveillance methods to be used.

¹⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

²⁰ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 101 **Róža Thun und Hohenstein, Dragoş Tudorache**

Motion for a resolution **Paragraph 8 a (new)**

Motion for a resolution

Amendment

8 a. The choice of surveillance method makes a big difference. Contrary to conventional wiretapping, which allows for the real time monitoring of communications, spyware allows for files (documents, images, etc.), messages and metadata about communications to be retrieved retroactively. This means that a judicial decision on and entry date and limited duration of the surveillance operation, has no meaning in the case of spyware. Moreover, it allows the operators to modify the data contained on the monitored device. Those characteristics of Pegasus make it inadmissible to be used in the light of personal freedoms enshrined in Constitution of Poland and European Convention of Human Rights

1a.

1a Professor Mariusz Bidziński, “Ocena legalności I skutków prawnych działań podejmowanych przy użyciu systemu Pegasus”, opinion for Polish Senate, September 2022

Or. en

Amendment 102

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution

Amendment

8 a. *The choice of surveillance method makes a big difference. Contrary to conventional wiretapping, which allows for the real time monitoring of communications, spyware allows for files (documents, images, etc.), messages and metadata about communications to be retrieved retroactively. This means that a judicial decision on and entry date and limited duration of the surveillance operation, has no meaning in the case of spyware.*

Or. en

Amendment 103
Sophia in 't Veld

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution

Amendment

8 a. *The choice of surveillance method makes a big difference. Contrary to*

conventional wiretapping, which allows for the real time monitoring of communications, spyware allows for files (documents, images, etc.), messages and metadata about communications to be retrieved retroactively. This means that a judicial decision on and entry date and limited duration of the surveillance operation, has no meaning in the case of spyware.

Or. en

Amendment 104

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 8 b (new)

Motion for a resolution

Amendment

8 b. Yet, if a judge rejects an application, they are required to give a reasoned justification for such a decision and it can be subject to appeal.^{20a} Crucially, in urgent cases, the prosecutor can initially authorise the use of interception methods without the approval of a judge, provided the court subsequently grants authorisation within five days.^{20b} This is a significant and deliberate loophole in the legal framework.

^{20a}

<https://www.lexology.com/library/detail.aspx?g=b3c8b4a9-d10f-4502-a345-b736280977ef>

^{20b}

<https://www.lexology.com/library/detail.aspx?g=b3c8b4a9-d10f-4502-a345-b736280977ef>

Or. en

Amendment 105
Sophia in 't Veld

Motion for a resolution
Paragraph 8 b (new)

Motion for a resolution

Amendment

8 b. *Yet, if a judge rejects an application, they are required to give a reasoned justification for such a decision and it can be subject to appeal^{1a}. Crucially, in urgent cases, the prosecutor can initially authorise the use of interception methods without the approval of a judge, provided the court subsequently grants authorisation within five days^{1b}. This is a significant and deliberate loophole in the legal framework.*

1a

<https://www.lexology.com/library/detail.aspx?g=b3c8b4a9-d10f-4502-a345-b736280977ef>

1b

<https://www.lexology.com/library/detail.aspx?g=b3c8b4a9-d10f-4502-a345-b736280977ef>

Or. en

Amendment 106

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 8 c (new)

Motion for a resolution

Amendment

8 c. *Requests for authorisation of surveillance by the main agencies, i.e. the CBA, the police (Policja KGP), and the*

intelligence services (Agencja Bezpieczeństwa Wewnętrznego, Centralne Biuro Antykorupcyjne, Straz Graniczna, Krajowa Administracja Skarbowa, Żandarmeria Wojskowa, Służba Kontrwywiadu Wojskowego, Służba Ochrony Państwa, Biuro Nadzoru Wewnętrznego MSWiA, and the recently added Inspektorat Służby Więziennej) are submitted almost exclusively to the Regional court in Warsaw (Sad Okręgowy), where the majority of these agencies are established.

Or. en

Amendment 107
Sophia in 't Veld

Motion for a resolution
Paragraph 8 c (new)

Motion for a resolution

Amendment

8 c. Requests for authorisation of surveillance by the main agencies, i.e. the CBA, the police (Policja KGP), and the intelligence services (Agencja Bezpieczeństwa Wewnętrznego, Centralne Biuro Antykorupcyjne, Straz Graniczna, Krajowa Administracja Skarbowa, Żandarmeria Wojskowa, Służba Kontrwywiadu Wojskowego, Służba Ochrony Państwa, Biuro Nadzoru Wewnętrznego MSWiA, and the recently added Inspektorat Służby Więziennej) are submitted almost exclusively to the Regional court in Warsaw (Sad Okręgowy), where the majority of these agencies are established.

Or. en

Amendment 108
Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

Motion for a resolution
Paragraph 8 d (new)

Motion for a resolution

Amendment

8 d. Several dozen surveillance applications are submitted every day, stretching the capacity of the court to conduct an in-depth examination of each request.^{20c} The system which randomly allocates cases to the judges of the courts is technically still in operation in Poland, but it is only functional during business hours. However, given that the Court which authorises surveillance functions on a 24-hour basis, there is ample opportunity for the system to be circumvented. By submitting an application at the weekend or outside of normal business hours, the case will be automatically assigned to the judge who is on call.^{20d} The information regarding who is on call at any given time is known to the secret services, who are then essentially able to select a “friendly judge” to whom they can submit their surveillance requests.^{20e} Additionally, random allocation can also be by-passed by IT personnel who have access to the system and could assign surveillance authorisations to “friendly judges”.^{20f}

^{20c} *Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.*

^{20d} *Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.*

^{20e} *Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of*

the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.

20^f Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.

Or. en

Amendment 109
Sophia in 't Veld

Motion for a resolution
Paragraph 8 d (new)

Motion for a resolution

Amendment

8 d. *Several dozen surveillance applications are submitted every day, stretching the capacity of the court to conduct an in-depth examination of each request^{1a}. The system which randomly allocates cases to the judges of the courts is technically still in operation in Poland, but it is only functional during business hours. However, given that the Court which authorises surveillance functions on a 24-hour basis, there is ample opportunity for the system to be circumvented. By submitting an application at the weekend or outside of normal business hours, the case will be automatically assigned to the judge who is on call^{1b}. The information regarding who is on call at any given time is known to the secret services, who are then essentially able to select a “friendly judge” to whom they can submit their surveillance requests^{1c}. Additionally, random allocation can also be by-passed by IT personnel who have access to the system and could assign surveillance authorisations to “friendly judges”^{1d}.*

^{1a} Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.

^{1b} Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.

^{1c} Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.

^{1d} Testimony of Ewa Wroszek, Country Specific Hearing on Poland, Meeting of the Committee of Inquiry to investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, 15 September 2022.

Or. en

Amendment 110

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 9

Motion for a resolution

Amendment

9. Parliamentary oversight is virtually non-existent in Poland. When PiS came to power in 2015, the traditional system of the opposition party taking on the Chairmanship of the Parliamentary Oversight Committee for the Special Services (KSS) was rejected, and the ruling parties installed PiS members Waldemar Andzel as Chairman and Mr. Jarosław Krajewski as Deputy

deleted

Chairman²¹. The government parties have the absolute majority in the committee²². Moreover, the government majority in the Sejm rejected calls for a parliamentary investigation into the allegations of the illegitimate use of spyware²³²⁴²⁵²⁶²⁷. The Senate on the other hand, where the government parties hold no majority, did set up an inquiry committee, but the Senate lacks the powers of inquiry of the Sejm²⁸.

²¹

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

²²

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

²³ AP,

<https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.

²⁴ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27.

²⁵ AP,

<https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.

²⁶ *The Guardian*, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022.

²⁷ Politico,

<https://www.politico.eu/article/polish-leader-jaroslawn-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

²⁸ European Commission Rule of Law 2022 Report, Poland Specific Chapter, <https://ec.europa.eu/info/sites/default/files>

Amendment 111

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 9

Motion for a resolution

9. Parliamentary oversight is virtually non-existent in Poland. ***When PiS came to power in 2015, the traditional system of the opposition party taking on the Chairmanship of the Parliamentary Oversight Committee for the Special Services (KSS) was rejected, and the ruling parties installed PiS members Waldemar Andzel as Chairman and Mr. Jarosław Krajewski as Deputy Chairman²¹. The government parties have the absolute majority in the committee²². Moreover, the government majority in the Sejm rejected calls for a parliamentary investigation into the allegations of the illegitimate use of spyware^{23 24 25 26 27}. The Senate on the other hand, where the **government parties hold no** majority, **did** set up an inquiry committee, **but** the Senate lacks **the powers of inquiry** of the Sejm²⁸.***

21

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

22

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

²³ AP,

Amendment

9. Parliamentary oversight is virtually non-existent in Poland. ***Before 2016*** the Parliamentary Oversight Committee for the Special Services (KSS) was ***led by a rotating chairmanship between the ruling and opposition parties. However, PiS has changed this parliamentary rule and installed PiS members Waldemar Andzel as permanent Chairman and Jarosław Krajewski as Deputy Chairman²². The government parties have the absolute majority in the committee²³. This renders the oversight function of the committee meaningless.*** Moreover, the government majority in the Sejm rejected calls for a parliamentary investigation into the allegations of the illegitimate use of spyware ***24 25 26 27 28***. The Senate on the other hand, where the ***opposition has the*** majority, set up an inquiry committee. ***However, the Senate committee lacks investigative powers of the Sejm 29***

22

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

²³ AP,

<https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.

<https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.

²⁴ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27.

²⁵ AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.

²⁶ The Guardian, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022.

²⁷ Politico, <https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

²⁸ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27, footnote 220.

Or. en

Amendment 112

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution

Paragraph 9

Motion for a resolution

9. Parliamentary oversight **is virtually non-existent in Poland. When PiS came to power in 2015, the traditional system of the opposition party taking on the Chairmanship** of the Parliamentary Oversight Committee for the Special Services (KSS) **was rejected, and the ruling parties installed PiS members**

Amendment

9. Parliamentary oversight **in this respect falls within the competence** of the Parliamentary Oversight Committee for the Special Services (KSS). The government parties have the absolute majority in the committee **which is a long-term practice** in the **Polish parliament** ²². The Senate did set up an inquiry committee, but the Senate

Waldemar Andzel as Chairman and Mr. Jarosław Krajewski as Deputy Chairman²¹. The government parties have the absolute majority in the committee²². **Moreover, the government majority in the Sejm rejected calls for a parliamentary investigation into the allegations of the illegitimate use of spyware**^{23 24 25 26 27}. The Senate *on the other hand, where the government parties hold no majority*, did set up an inquiry committee, but the Senate lacks the powers of inquiry of the Sejm²⁸.

21

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

22

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

23 *AP*,

<https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.

24 *European Commission Rule of Law 2022 Report, Poland Specific Chapter*, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27.

25 *AP*,

<https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.

26 *The Guardian*, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022.

27 *Politico*,

<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

28 *European Commission Rule of Law 2022 Report, Poland Specific Chapter*,

lacks the powers of inquiry of the Sejm²⁸.

22

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

28 *European Commission Rule of Law 2022 Report, Poland Specific Chapter*,

https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf
at pg. 27, footnote 220.

https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf
at pg. 27, footnote 220.

Or. en

Amendment 113

Róża Thun und Hohenstein, Dragoș Tudorache, Marcel Kolaja

Motion for a resolution

Paragraph 9

Motion for a resolution

9. Parliamentary oversight is virtually non-existent in Poland. When PiS came to power in 2015, the traditional system of the opposition party taking on the Chairmanship of the Parliamentary Oversight Committee for the Special Services (KSS) was rejected, and the ruling parties installed PiS members Waldemar Andzel as Chairman and Mr. Jarosław Krajewski as Deputy Chairman²¹. The government parties have the absolute majority in the committee²². Moreover, the government majority in the Sejm rejected calls for a parliamentary investigation into the allegations of the illegitimate use of spyware^{23 24 25 26 27}. The Senate on the other hand, where the government parties hold no majority, did set up an inquiry committee, but the Senate lacks the powers of inquiry of the Sejm²⁸.

21

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

22

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&K>

PE740.912v01-00

Amendment

9. Parliamentary oversight is virtually non-existent in Poland. When PiS came to power in 2015, the traditional system of the opposition party taking on the Chairmanship of the Parliamentary Oversight Committee for the Special Services (KSS) was rejected, and the ruling parties installed PiS members Waldemar Andzel as Chairman and Mr. Jarosław Krajewski as Deputy Chairman ***of this Committee***²¹. The government parties have the absolute majority in the Committee²². Moreover, the government majority in the Sejm rejected calls for a parliamentary investigation into the allegations of the illegitimate use of spyware^{23 24 25 26 27}. ***The motion to appoint a committee of inquiry, filed by the opposition MPs, has not been admitted by Sejm Speaker, elected by the government majority, for a year. The*** Senate on the other hand, where the government parties hold no majority, did set up an inquiry committee, but the Senate lacks the powers of inquiry of the Sejm²⁸.

21

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&KodKom=KSS>

22

<https://sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=SKLADKOMST&NrKadencji=9&K>

92/188

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odKom=KSS

²³ AP,
<https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.

²⁴ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27.

²⁵ AP,
<https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.

²⁶ The Guardian, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022.

²⁷ Politico,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

²⁸ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27, footnote 220.

odKom=KSS

²³ AP,
<https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.

²⁴ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27.

²⁵ AP,
<https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.

²⁶ The Guardian, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022.

²⁷ Politico,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

²⁸ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27, footnote 220.

Or. en

Amendment 114 **Róża Thun und Hohenstein, Dragoş Tudorache**

Motion for a resolution **Paragraph 9 a (new)**

Motion for a resolution

Amendment

9 a. In the academic and expert debate in Poland it has been raised for a long time that the crucial issue is the lack of independent body supervising the operational activities of the secret services. The group of experts affiliated to

the Poland's Commissioner for Human Rights in their report offered a detailed proposal on the institutional setup and description of competencies of such a potential organ. In their view it should be elected by the Parliament for a fixed term among the candidates proposed by such bodies as Commissioner for Human Rights, First President of the Supreme Court, the President of the Supreme Administrative Court. An independent body established in this process would have a broad access to data retained by the special services and could intervene in the cases of infringements of the law. Similar organs function in numerous EU countries e.g. Belgium, Denmark, the Netherlands, Portugal, France or Sweden^{1a}.

^{1a} „HOW TO SADDLE PEGASUS: Observance of civil rights in the activities of security services: objectives of the reform Osiodłać Pegaza – przestrzeganie praw obywatelskich w działalności służb specjalnych – założenia reformy”, Warsaw, September 2019, [https://bip.brpo.gov.pl/sites/default/files/HOW%20TO%20SADDLE%20PEGASUS%20\(OSIOD%C5%81A%C4%86%20PEGAZA\).pdf](https://bip.brpo.gov.pl/sites/default/files/HOW%20TO%20SADDLE%20PEGASUS%20(OSIOD%C5%81A%C4%86%20PEGAZA).pdf) p. 13-26.

Or. en

Amendment 115

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 9 a (new)

Motion for a resolution

Amendment

9 a. Scrutiny and remedies offered by other independent bodies have also been severely weakened. The Supreme Audit

Office has effective powers of oversight; however, its members and staff are subject to constant obstruction, harassment and intimidation, which is severely affecting its operational capacity. The Sejm has so far failed to appoint ten of the nineteen members of the NIK council. The required vetting of council members carried out by the special services, headed by Minister Kaminski, is very slow. ^{28a}

^{28a} Reuters,
<https://www.reuters.com/article/poland-pegasus-idUSL8N2UF596> , 4 February 2022.

Or. en

Amendment 116
Sophia in 't Veld

Motion for a resolution
Paragraph 9 a (new)

Motion for a resolution

Amendment

9 a. *Scrutiny and remedies offered by other independent bodies have also been severely weakened. The Supreme Audit Office has effective powers of oversight; however, its members and staff are subject to constant obstruction, harassment and intimidation, which is severely affecting its operational capacity^{1a}. The Sejm has so far failed to appoint ten of the nineteen members of the NIK council^{1b}. The required vetting of council members carried out by the special services, headed by Minister Kaminski, is very slow^{1c}.*

^{1a} Reuters,
<https://www.reuters.com/article/poland-pegasus-idUSL8N2UF596> , 4 February 2022; Discussion with Supreme Audit Office, Mission of the Committee of Inquiry to investigate the use of Pegasus

and Equivalent Surveillance Spyware to Poland, September 2022.

^{1b} <https://www.nik.gov.pl/en/about-us/the-council-of-nik/>; Discussion with Supreme Audit Office staff, Mission of the Committee of Inquiry to Investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, September 2022.

^{1c} Discussion with Supreme Audit Office staff, Mission of the Committee of Inquiry to Investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, September 2022.

Or. en

Amendment 117

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 9 b (new)

Motion for a resolution

Amendment

9 b. When a violation of the law is discovered by the NIK, they have the power to submit notification to the Prosecutor's office. ^{28f} However, it is up to the office of the Prosecutor to initiate a case on the basis of that violation. In situations where the Prosecutor does not take action, there is little that can be done by NIK. When a reported violation concerns operation of the Prosecutor's office itself, a vicious circle of non-accountability is created. In addition, all cases notified by NIK to office of the Prosecutor must be reported to the Prosecutor General, who is also the Minister of Justice, heading the very ministry that purchased the spyware in the first place.

*^{28f} Act of 23 December 1994 on the Supreme Audit Office
<https://www.nik.gov.pl/en/about-us/legal-regulations/act-on-the-supreme-audit-office.html> at Article 63.*

Or. en

Amendment 118
Sophia in 't Veld

Motion for a resolution
Paragraph 9 b (new)

Motion for a resolution

Amendment

9 b. *When a violation of the law is discovered by the NIK, they have the power to submit notification to the Prosecutor's office^{1a}. However, it is up to the office of the Prosecutor to initiate a case on the basis of that violation. In situations where the Prosecutor does not take action, there is little that can be done by NIK. When a reported violation concerns operation of the Prosecutor's office itself, a vicious circle of non-accountability is created. In addition, all cases notified by NIK to office of the Prosecutor must be reported to the Prosecutor General, who is also the Minister of Justice, heading the very ministry that purchased the spyware in the first place.*

*^{1a} Act of 23 December 1994 on the Supreme Audit Office
<https://www.nik.gov.pl/en/about-us/legal-regulations/act-on-the-supreme-audit-office.html> at Article 63.*

Or. en

Amendment 119
Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,

Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 9 c (new)

Motion for a resolution

Amendment

9 c. The Sejm consistently refuses to grant discharge to NIK each year, and when Marian Banās, the head of NIK, uses his statutory speaking time in Sejm, MPs of the governing parties leave the room. ^{28g}

^{28g} *Discussion with Supreme Audit Office staff, Mission of the Committee of Inquiry to Investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, September 2022.*

Or. en

Amendment 120
Sophia in 't Veld

Motion for a resolution
Paragraph 9 c (new)

Motion for a resolution

Amendment

9 c. The Sejm consistently refuses to grant discharge to NIK each year, and when Marian Banās, the head of NIK, uses his statutory speaking time in Sejm, MPs of the governing parties leave the room^{1a}.

^{1a} *Discussion with Supreme Audit Office staff, Mission of the Committee of Inquiry to Investigate the use of Pegasus and Equivalent Surveillance Spyware to Poland, September 2022.*

Or. en

Amendment 121

**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja**
on behalf of the Verts/ALE Group

**Motion for a resolution
Paragraph 9 d (new)**

Motion for a resolution

Amendment

9 d. The current Ombudsman Marcin Wiącek was appointed in 2021 when the Sejm and Senate agreed on a non-partisan compromise candidate after a long tug of war. ^{28h} So far, he has not intervened in cases relating to abuse of spyware. Notably, regarding the case of Senator Brejza, Wiącek argues that the Ombudsman should not get involved in the early stages of a case. Despite this, both the former and current Ombudsmen have been monitoring the situation and asserting a certain amount of pressure on the need to create an independent oversight body to provide democratic control on the operations of the secret services. ²⁸ⁱ

^{28h} Euractiv,
https://www.euractiv.com/section/politics/short_news/poland-elects-new-ombudsman-in-rule-of-law-standoff/, 22 July 2021.

²⁸ⁱ Europe's PegasusGate - European Parliament Research Service,
[https://www.europarl.europa.eu/RegData/etudes/STUD/2022/729397/EPRS_STU\(2022\)729397_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/729397/EPRS_STU(2022)729397_EN.pdf), at pg. 22.

Or. en

Amendment 122
Sophia in 't Veld

Motion for a resolution

Paragraph 9 d (new)

Motion for a resolution

Amendment

9 d. *The current Ombudsman Marcin Wiącek was appointed in 2021 when the Sejm and Senate agreed on a non-partisan compromise candidate after a long tug of war^{1a}. So far, he has not intervened in cases relating to abuse of spyware. Notably, regarding the case of Senator Brejza, Wiącek argues that the Ombudsman should not get involved in the early stages of a case. Despite this, both the former and current Ombudsmen have been monitoring the situation and asserting a certain amount of pressure on the need to create an independent oversight body to provide democratic control on the operations of the secret services^{1b}.*

^{1a} *Euractiv,*
https://www.euractiv.com/section/politics/short_news/poland-elects-new-ombudsman-in-rule-of-law-standoff/, 22 July 2021.

^{1b} *Europe's PegasusGate - European Parliament Research Service,*
[https://www.europarl.europa.eu/RegData/etudes/STUD/2022/729397/EPRS_STU\(2022\)729397_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/729397/EPRS_STU(2022)729397_EN.pdf), at pg. 22.

Or. en

Amendment 123

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution Paragraph 10

Motion for a resolution

Amendment

10. Under the 2016 Police Act, Police are only required to submit semi-annual reports to the courts regarding the number

10. Under the 2016 Police Act, Police are only required to submit semi-annual reports to the courts regarding the number

of collections of telecommunication, postal or internet data along with their legal reasoning (relating to the protection of human life or health or supporting search and rescue)²⁹. ***These reports can only be done ex-post and are not made public. If there is an issue with the submission, the court will submit their findings in response within 30 days but they cannot order the destruction of any data even if they find incompatibilities with the law. Critically, these supervisory actions are only optional, not mandatory***³⁰.

²⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

³⁰ ***HFHR Report at pg.4.***

of collections of telecommunication, postal or internet data along with their legal reasoning (relating to the protection of human life or health or supporting search and rescue)²⁹.

²⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Or. en

Amendment 124

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arlukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Paragraph 10

Motion for a resolution

10. Under the 2016 Police Act, Police ***are*** only required to submit ***semi-annual*** reports to the ***courts*** regarding the number of collections of telecommunication, postal or internet data along with their legal reasoning (relating to ***the*** protection of human life or health or supporting search and rescue)²⁹. These reports can only be done ex-post and are not made public. If there is an issue with the submission, the court will submit their findings in response within 30 days but they cannot order the destruction of any data even if they find

Amendment

10. Under the 2016 Police Act, Police ***is*** only required to submit ***biannual generalised*** reports ***to the competent court*** regarding the number of collections of telecommunication, postal or internet data along with their legal reasoning (relating to ***prevention or detection of crimes,*** protection of human life or health or supporting search and rescue ²⁹). These reports can only be done ex-post and are not made public. If there is an issue with the submission, the court will submit their findings in response within 30 days but

incompatibilities with the law. **Critically**, these supervisory actions are only optional, not mandatory³⁰.

²⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

³⁰ HFHR Report at pg.4.

they cannot order the destruction of any data even if they find incompatibilities with the law. **Most importantly**, these supervisory actions are only optional, not mandatory³⁰.

²⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

³⁰ HFHR Report at pg.4.

Or. en

Amendment 125

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 10

Motion for a resolution

10. Under the 2016 Police Act, Police are only required to submit semi-annual reports to the courts regarding the number of collections of telecommunication, postal or internet data along with their legal reasoning (relating to the protection of human life or health or supporting search and rescue)²⁹. These reports **can only be** done ex-post and are not made public. If there is an issue with the submission, the court **will submit** their findings in response within 30 days but they cannot order the destruction of any data even if they find incompatibilities with the law. Critically, these supervisory actions are only optional, not mandatory³⁰.

²⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

Amendment

10. Under the 2016 Police Act, Police are only required to submit semi-annual reports to the courts regarding the number of collections of telecommunication, postal or internet data along with their legal reasoning (relating to the protection of human life or health or supporting search and rescue)²⁹. These reports **are only** done ex-post and are not made public. If there is an issue with the submission, the court **submits** their findings in response within 30 days but they cannot order the destruction of any data even if they find incompatibilities with the law. Critically, these supervisory actions are only optional, not mandatory.

²⁹ Act of 15 January 2016 Amending the Police Act and Certain Other Acts at Art. 20c, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000147/T/D20160147L.pdf>.

f.

f

³⁰ HFHR Report *at pg.4.*

Or. fr

Amendment 126

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Subheading 11

Motion for a resolution

Amendment

Redress

deleted

Or. fr

Amendment 127

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 11

Motion for a resolution

Amendment

11. *So far, the Polish prosecutor has not launched an inquiry, despite the ample evidence that serious crimes have been committed. It seems that only the case of prosecutor Ewa Wrzosek has been taken up by the courts. Wrzosek initially filed her case with the office of the Prosecutor, however upon their official refusal to take up the case, she was able to appeal to the Courts. In late September 2022, the Warsaw District Court (Mokotów) ordered the prosecutor to begin an investigation³¹.* *deleted*

³¹ *Wyborcza,*
<https://wyborcza.pl/7,75398,28963729,peg-asus-w-telefonie-ewy-wrzosek-prokuratura-odmowila-sad-kaze.html> , 28 September 2022.

Amendment 128

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution
Paragraph 11

Motion for a resolution

11. So far, the Polish prosecutor has not launched an inquiry, *despite the ample evidence that serious crimes have been committed*. It seems that only the case of prosecutor Ewa Wrzosek has been taken up by the courts. *Wrzosek initially filed her case with the office of the Prosecutor, however upon their official refusal to take up the case, she was able to appeal to the Courts. In late September 2022, the Warsaw District Court (Mokotów) ordered the prosecutor to begin an investigation³¹.*

³¹ *Wyborcza*,
<https://wyborcza.pl/7,75398,28963729,peg-asus-w-telefonie-ewy-wrzosek-prokuratura-odmowila-sad-kaze.html> , 28 September 2022.

Amendment

11. So far, the Polish prosecutor has not launched an inquiry *due to lack of sufficient* evidence. It seems that only the case of prosecutor Ewa Wrzosek has been taken up by the courts.

Amendment 129

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution
Paragraph 11

Motion for a resolution

11. So far, *the Polish prosecutor has not launched an inquiry, despite the ample evidence that serious crimes have been committed*. It seems that only the case of prosecutor Ewa Wrzosek *has* been taken up by the *courts*. Wrzosek initially

Amendment

11. So far, *despite the ample evidence that serious crimes have been committed by senior public officials, the Polish prosecutor has been acting in a very dilatory manner*. It seems that only the cases of prosecutor Ewa Wrzosek *and*

filed her case with the office of the Prosecutor, however upon their official refusal to take up the case, she was able to appeal to the Courts. In late September 2022, the Warsaw District Court (Mokotów) ordered the prosecutor to begin an investigation³¹.

³¹ Wyborcza, <https://wyborcza.pl/7,75398,28963729,peg-asus-w-telefonie-ewy-wrzosek-prokuratura-odmowila-sad-kaze.html> , 28 September 2022.

Krzysztof Brejza have been taken up by the Polish justice system, although the politicised prosecutor's office is not taking the steps necessary for these cases to progress. Wrzosek initially filed her case with the office of the Prosecutor, however upon their official refusal to take up the case, she was able to appeal to the Courts. In late September 2022, the Warsaw District Court (Mokotów) ordered the prosecutor to begin an investigation³¹.

³¹ Wyborcza, <https://wyborcza.pl/7,75398,28963729,peg-asus-w-telefonie-ewy-wrzosek-prokuratura-odmowila-sad-kaze.html>, 28 September 2022.

Or. pl

Amendment 130 Sophia in 't Veld

Motion for a resolution Paragraph 11 a (new)

Motion for a resolution

Amendment

11 a. It is critical to note that Wrzosek was only able to initiate this appeal in the Courts as a result of obtaining an official refusal from the office of the Prosecutor. In many other instances, the Prosecutor will drag out their investigation in order to avoid ever having to issue an official response, as they are aware that if they do so they will be exposed to the appeals process in the Courts.

Or. en

**Amendment 131
Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja**
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 11 a (new)

Motion for a resolution

Amendment

11 a. It is critical to note that Wrzosek was only able to initiate this appeal in the Courts as a result of obtaining an official refusal from the office of the Prosecutor. In many other instances, the Prosecutor will drag out their investigation in order to avoid ever having to issue an official response, as they are aware that if they do so they will be exposed to the appeals process in the Courts.

Or. en

Amendment 132

**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Marcel Kolaja,
Gwendoline Delbos-Corfield**
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 11 b (new)

Motion for a resolution

Amendment

11 b. Citizens who have been targeted can of course bring a civil case before court, but the burden of proof is on the plaintiff and it is virtually impossible to prove the illegitimate use of spyware without the cooperation of the authorities. The lack of implementation of the duty to notify in Poland, as outline in the Klass judgement, means many persons may never know they have been targeted.

Or. en

Amendment 133
Sophia in 't Veld

Motion for a resolution

Paragraph 11 b (new)

Motion for a resolution

Amendment

11 b. Citizens who have been targeted can of course bring a civil case before court, but the burden of proof is on the plaintiff and it is virtually impossible to prove the illegitimate use of spyware without the cooperation of the authorities. The lack of implementation of the duty to notify in Poland, as outlined in the Klass judgement, means many persons may never know they have been targeted.

Or. en

Amendment 134

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 11 c (new)

Motion for a resolution

Amendment

11 c. NIK have submitted official notification to the Prosecutor's office regarding a violation of the law concerning the use of resources of the Justice Fund to purchase Pegasus in 2017. However, given the current institutional and political environment, there is no expectation that the office of the Prosecutor will take action on such a case.

Or. en

Amendment 135

Sophia in 't Veld

Motion for a resolution

Paragraph 11 c (new)

11 c. NIK have submitted official notification to the Prosecutor's office regarding a violation of the law concerning the use of resources of the Justice Fund to purchase Pegasus in 2017. However, given the current institutional and political environment, there is no expectation that the office of the Prosecutor will take action on such a case.

Or. en

Amendment 136

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 11 d (new)

11 d. Currently, the cases *Pietrzak v. Poland and Bychawska-Siniarska and others v. Poland* are before the ECtHR challenging the lack of transparency, oversight, notification and remedies when it comes to surveillance in Poland. Significantly, the Court decided to conduct a rare hearing for these cases, which took place on 27 September 2022. The cases were taken by five citizens ^{31a} who submitted complaints to the ECtHR in September 2017 and February 2018 respectively. Eleven entities submitted their *amicus curiae* briefs in this case, including European Criminal Bar Association ^{31b}, the Polish Ombudsman, and the UN Special Rapporteur on counter-terrorism and human rights. ^{31c}

^{31a} Mr. Mikołaj Pietrzak, lawyer. Dean of the Warsaw Bar; Ms. Dominika Bychawska-Siniarska, member and

employee of the Helsinki Foundation for Human Rights; Ms. Barbara Grabowska-Moroz, university lecturer and researcher and external expert of the Helsinki Foundation for Human Rights; Mr. Wojciech Klicki and Ms. Katarzyna Szymielewicz, members of the Panoptykon Foundation based in Warsaw.

31b

<https://www.ecba.org/content/index.php/working-groups/human-rights/857-ecba-hr-office-at-the-echr-hearing-in-the-case-pietrzak-v-poland-and-bychawska-siniarska-and-others-v-poland-hearing-29-09-2022>

31c

https://www.ohchr.org/sites/default/files/Documents/Issues/Terrorism/SR/AmicusBrief_Poland_SRCT_ECHR.pdf

Or. en

Amendment 137
Sophia in 't Veld

Motion for a resolution
Paragraph 11 d (new)

Motion for a resolution

Amendment

*11 d. Currently, the cases **Pietrzak v. Poland and Bychawska-Siniarska and others v. Poland** are before the ECtHR challenging the lack of transparency, oversight, notification and remedies when it comes to surveillance in Poland. Significantly, the Court decided to conduct a rare hearing for these cases, which took place on 27 September 2022. The cases were taken by five citizens^{1a} who submitted complaints to the ECtHR in September 2017 and February 2018 respectively. Eleven entities submitted their amicus curiae briefs in this case, including European Criminal Bar Association^{1b}, the Polish Ombudsman, and the UN Special*

Rapporteur on counter-terrorism and human rights^{1c}.

^{1a} Mr. Mikołaj Pietrzak, lawyer. Dean of the Warsaw Bar; Ms. Dominika Bychawska-Siniarska, member and employee of the Helsinki Foundation for Human Rights; Ms. Barbara Grabowska-Moroz, university lecturer and researcher and external expert of the Helsinki Foundation for Human Rights; Mr. Wojciech Klicki and Ms. Katarzyna Szymielewicz, members of the Panoptykon Foundation based in Warsaw.

^{1b}

<https://www.ecba.org/content/index.php/working-groups/human-rights/857-ecba-hr-office-at-the-echr-hearing-in-the-case-pietrzak-v-poland-and-bychawska-siniarska-and-others-v-poland-hearing-29-09-2022>

^{1c}

https://www.ohchr.org/sites/default/files/Documents/Issues/Terrorism/SR/AmicusBrief_Poland_SRCT_ECHR.pdf

Or. en

Amendment 138
Sophia in 't Veld

Motion for a resolution
Paragraph 11 e (new)

Motion for a resolution

Amendment

11 e. Although this avenue of complaint before the ECtHR is open to citizens, it is questionable if this qualifies as effective legal remedy, given the length of the proceedings. Five years after the initial complaint, there is still no court decision in this case.

Or. en

Amendment 139

**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja**
on behalf of the Verts/ALE Group

**Motion for a resolution
Paragraph 11 e (new)**

Motion for a resolution

Amendment

11 e. Although this avenue of complaint before the ECtHR is open to citizens, it is questionable if this qualifies as effective legal remedy, given the length of the proceedings. Five years after the initial complaint, there is still no court decision in this case.

Or. en

**Amendment 140
Sophia in 't Veld**

**Motion for a resolution
Paragraph 11 f (new)**

Motion for a resolution

Amendment

11 f. On the basis of Article 227 of the Code of Administrative Procedure, complaints were submitted earlier in 2017 to the Prime Minister and the respective heads of the various police and intelligence services. Those intelligence services included the CBA, the Internal Security Agency (ABW), the National Tax Administration (KAS), the Military Counterintelligence Service (SKW), the national police, the border police and the national gendarmerie. Their complaint concerned the fact that the legislation permitted members of these police and intelligence services to monitor their telecommunications and digital communications without their knowledge. As the members of the services in question

were not required to inform them about possible surveillance, the applicants were consequently unable to have the lawfulness of that activity reviewed by a court, which, in their view, was contrary to the Polish Constitution.

Or. en

Amendment 141

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 11 f (new)

Motion for a resolution

Amendment

11 f. On the basis of Article 227 of the Code of Administrative Procedure, complaints were submitted earlier in 2017 to the Prime Minister and the respective heads of the various police and intelligence services. Those intelligence services included the CBA, the Internal Security Agency (ABW), the National Tax Administration (KAS), the Military Counterintelligence Service (SKW), the national police, the border police and the national gendarmerie. Their complaint concerned the fact that the legislation permitted members of these police and intelligence services to monitor their telecommunications and digital communications without their knowledge. As the members of the services in question were not required to inform them about possible surveillance, the applicants were consequently unable to have the lawfulness of that activity reviewed by a court, which, in their view, was contrary to the Polish Constitution.

Or. en

Amendment 142

**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja**
on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 11 g (new)

Motion for a resolution

Amendment

11 g. Between June and September 2017, the heads of the above-mentioned police and intelligence services sent their responses to the applicants' complaints. Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights (ECHR), the applicants complained that the secret systems for monitoring telecommunications, postal and digital communications and gathering metadata, introduced in application the Act, and the Anti-Terrorism Act, interfere with their right to respect for their private life. Relying on Article 8 taken together with Article 13 (right to an effective remedy), the applicants allege that they had no effective remedy which would have enabled them to establish whether they themselves had been subjected to secret surveillance and, if necessary, to have the lawfulness of that surveillance reviewed by a court.

Or. en

Amendment 143

Sophia in 't Veld

Motion for a resolution

Paragraph 11 g (new)

Motion for a resolution

Amendment

11 g. Between June and September 2017, the heads of the above-mentioned police and intelligence services sent their responses to the applicants' complaints.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights (ECHR), the applicants complained that the secret systems for monitoring telecommunications, postal and digital communications and gathering metadata, introduced in application the Act, and the Anti-Terrorism Act, interfere with their right to respect for their private life. Relying on Article 8 taken together with Article 13 (right to an effective remedy), the applicants allege that they had no effective remedy which would have enabled them to establish whether they themselves had been subjected to secret surveillance and, if necessary, to have the lawfulness of that surveillance reviewed by a court.

Or. en

Amendment 144
Sophia in 't Veld

Motion for a resolution
Paragraph 11 h (new)

Motion for a resolution

Amendment

11 h. It is worthy of note that Poland has not yet implemented the EU Whistleblowers Directive. It did not meet the December 2021 deadline after its initial draft legislation failed. A second draft was published in April 2022 but there has been no further progress and the proposed legislation contains significantly weaker provisions. In January 2022, the Commission opened an infringement procedure against Poland for failing to fully implement the Directive. In July 2022, the Commission sent a reasoned opinion to Poland^{1a}. Subsequently, Poland sent the Commission a response. The content and the Commission's assessment of this reply are not yet

available.

1a

https://ec.europa.eu/commission/presscorner/detail/en/inf_22_3768

Or. en

Amendment 145

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 11 h (new)

Motion for a resolution

Amendment

11 h. It is worthy of note that Poland has not yet implemented the EU Whistleblowers Directive. It did not meet the December 2021 deadline after its initial draft legislation failed. A second draft was published in April 2022 but there has been no further progress and the proposed legislation contains significantly weaker provisions. In January 2022, the Commission opened an infringement procedure against Poland for failing to fully implement the Directive. In July 2022, the Commission sent a reasoned opinion to Poland. No further development has been communicated since.

Or. en

Amendment 146

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution
Subheading 12

Motion for a resolution

Amendment

Amendment 147

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 12

Motion for a resolution

Amendment

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, in the case of the use of spyware, the Polish public broadcaster, which is largely controlled by the government parties, actually became complicit in the illegitimate surveillance scandal, by making public materials obtained from the smart phones of several of the targets, including Senator Brejza. Making public information obtained in a surveillance operation of the special services, is a criminal act in itself. Yet, no action has been taken by the police or the public prosecution.

deleted

Amendment 148

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 12

Motion for a resolution

Amendment

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, in the case of the use of spyware, the Polish public broadcaster, which is **largely** controlled by the government parties, actually became complicit in the

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, in the case of the use of spyware, the Polish public broadcaster, which is controlled by the government parties, actually became complicit in the

illegitimate surveillance scandal, by making public materials obtained from the smart phones of *several* of the *targets, including* Senator Brejza. Making public information obtained in a surveillance operation of the special services, is a criminal act in itself. Yet, no action has been taken by the police or the public prosecution.

illegitimate surveillance scandal, by making public *and tampering with* materials obtained from the smart phones of *targets, including Senator Brejza, the former election campaign director for the country's largest opposition party. The senders were switched with the recipients of the messages, and different messages were compiled into one single message, thus changing their meaning and context. The number of messages that were tampered with, as Senator Brejza pointed out during the hearing before the committee, amounted to around five hundred between the end of August and 13 October 2019, i.e. during the Polish parliamentary election campaign.* Making public information obtained in a surveillance operation of the special services, is a criminal act in itself. Yet, no action has been taken by the police or the public prosecution.

Or. pl

Amendment 149

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 12

Motion for a resolution

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, in the case of the use of spyware, the Polish public broadcaster, which is largely controlled by the government parties, actually became complicit in *the illegitimate* surveillance scandal, by making public materials obtained from the smart phones of several of the targets, including Senator Brejza. Making public information obtained in a surveillance operation of the special services, is a

Amendment

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, in the case of the use of spyware, the Polish public broadcaster, which is largely controlled by the government parties, actually became complicit in *this* surveillance scandal, by making public materials obtained from the smart phones of several of the targets, including *opposition's* Senator *Krzysztof* Brejza. Making public *the* information obtained in a surveillance operation of the special

criminal act in itself. Yet, no action has been taken by the police or the public *prosecution*.

services, is a criminal act in itself. Yet, no action has been taken by the police or the public *prosecutor*.

Or. en

Amendment 150

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 12**

Motion for a resolution

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, *in the case of the use of spyware, the Polish public broadcaster, which is largely controlled by the government parties, actually became complicit in the illegitimate surveillance scandal, by making public materials obtained from the smart phones of several of the targets, including Senator Brejza. Making public information obtained in a surveillance operation of the special services, is a criminal act in itself. Yet, no action has been taken by the police or the public prosecution.*

Amendment

12. Independent media are another element of democratic checks and balances, exercising public scrutiny. However, *the freedom and independence of the media in Poland is undermined due to the dependence of a large part of them from foreign capital and pushing a foreign political agenda. The media often use stolen and illegally obtained information to discredit political opponents of this agenda. An example may be the ONET portal, owned by Ringier Axel Springer, which for a long time published the content of e-mails stolen from Minister Dworczyk's e-mail box by Russian hackers.*

Or. en

Amendment 151

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution **Paragraph 13**

Motion for a resolution

13. *Many key positions in the entire chain are held by members or loyalists of the government parties. Minister of the Interior and Coordinator of the Special*

deleted

Amendment

Services Kaminski was convicted in 2015 of abuse of power and sentenced to three years imprisonment³². But immediately after the 2015 parliamentary elections President Duda pardoned him in a highly irregular manner, which was condemned by among others, the Polish Supreme Court, the ECJ, the Venice Commission and the US Department of State. It raises concerns about his independence and neutrality. Mr. Kaminski has declined to meet with or co-operate with the European Parliament Pegasus Special Inquiry Committee³³.

³² *Reuters,*
<https://www.reuters.com/article/uk-poland-president-pardon-idUKKCN0T62H620151117>, 17 November 2015.

³³ *EU Observer,*
<https://euobserver.com/rule-of-law/156063>, 15 September 2022.

Or. fr

Amendment 152

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 13

Motion for a resolution

13. Many key positions in the entire chain are held by members or loyalists of the government parties. Minister of the Interior and Coordinator of the Special Services Kaminski was convicted in 2015 of abuse of power and sentenced to three years imprisonment³². But immediately after the 2015 parliamentary elections President Duda pardoned him in a highly irregular manner, which was condemned by among others, the Polish Supreme Court, the ECJ, the Venice Commission and the US Department of State. It raises

Amendment

13. Many key positions in the entire chain are held by members or loyalists of the government parties. Minister of the Interior and Coordinator of the Special Services Kaminski, ***who simultaneously served as vice-president of the ruling party (PiS) and was formerly head of the Central Anti-Corruption Bureau between 2006 and 2009***, was convicted in 2015 by ***the District Court for Warsaw-Śródmieście*** of abuse of power and sentenced to three years ***of unconditional imprisonment and a 10-year ban on***

concerns about *his* independence and neutrality. **Mr. Kaminski** has declined to meet with or co-operate with the European Parliament Pegasus Special Inquiry Committee³³.

holding public office³² But immediately after the 2015 parliamentary elections President Duda pardoned him in a highly irregular manner, which was condemned by among others, the Polish Supreme Court, the ECJ, the Venice Commission and the US Department of State. ***It is similar in the case of Maciej Wąsik, the current Secretary of State at the Ministry of Internal Affairs and current Deputy Coordinator of Special Services under Minister Mariusz Kamiński, known, among other things, for logging in almost 7 000 times to the Central Anti-Corruption Bureau's wiretapping system – according to testimony before the committee from the former Head of the Central Anti-Corruption Bureau, Paweł Wojtunik – during his time as Deputy Head of the Central Anti-Corruption Bureau in the years 2006-2009, which enabled him to gain informal knowledge of the contents of conversations. Relevant for the assessment of the behaviour of the current politicians overseeing the services in Poland, i.e. M. Kamiński and M. Wąsik, is the fact that in the past they were investigated for abuses in the use of operational surveillance and undercover operations by Central Anti-Corruption Bureau officers subordinate to them in the years 2006-2009. These irregularities were also the subject of work carried out by the Sejm's investigative committee. The abuses established at that time by the investigative committee and the Prosecutor's Office concerned the creation of fictitious trial materials, and the obtaining through deception of consent for operational surveillance from the Prosecutor-General and the competent court, which made it possible for de facto unlawful operational activities to be carried out against political opponents. The foregoing raises concerns about their independence and neutrality. Government representatives, including M. Kamiński, have declined to meet with or co-operate with the European Parliament***

³² Reuters,
<https://www.reuters.com/article/uk-poland-president-pardon-idUKKCN0T62H620151117> , 17
November 2015.

³³ EU Observer,
<https://euobserver.com/rule-of-law/156063>
, 15 September 2022.

³² Reuters,
<https://www.reuters.com/article/uk-poland-president-pardon-idUKKCN0T62H620151117>, 17
November 2015.

³³ EU Observer,
<https://euobserver.com/rule-of-law/156063>,
15 September 2022.

Or. pl

Amendment 153

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution Paragraph 13

Motion for a resolution

13. ***Many key positions in the entire chain are held by members or loyalists of the government parties. Minister of the Interior and Coordinator of the Special Services Kaminski was convicted in 2015 of abuse of power and sentenced to three years imprisonment³². But immediately after the 2015 parliamentary elections President Duda pardoned him in a highly irregular manner, which was condemned by among others, the Polish Supreme Court, the ECJ, the Venice Commission and the US Department of State. It raises concerns about his independence and neutrality. Mr. Kaminski has declined to meet with or co-operate with the European Parliament Pegasus Special Inquiry Committee³³.***

³² Reuters,
<https://www.reuters.com/article/uk-poland-president-pardon-idUKKCN0T62H620151117> , 17

Amendment

13. ***Political control over the use of surveillance in Poland is exercised by the government formed in a democratic process, and particular by Minister of the Interior and Coordinator of the Special Services.***

November 2015.

³³ *EU Observer,*
<https://euobserver.com/rule-of-law/156063> , 15 September 2022.

Or. en

Amendment 154
Sophia in 't Veld

Motion for a resolution
Paragraph 13 a (new)

Motion for a resolution

Amendment

13 a. Minister of Justice Ziobro, is also the Prosecutor General. Concerns over this combination of offices have been raised frequently in recent years. Mr. Ziobro plays a very central role in the entire chain described above. Mr. Ziobro equally has declined to meet with or co-operate with the PEGA committee.

Or. en

Amendment 155

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 13 a (new)

Motion for a resolution

Amendment

13 a. Minister of Justice Ziobro, is also the Prosecutor General. Concerns over this combination of offices have been raised frequently in recent years. Mr. Ziobro plays a very central role in the entire chain described above. Mr. Ziobro equally has declined to meet with or co-operate with the PEGA committee.

Amendment 156

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution**Paragraph 13 b (new)**

Motion for a resolution

Amendment

13 b. It has been established that the CBA is a government controlled body^{33a}^{33b} despite its title and its mandate which was established under the Act of 9 June 2006 on the Central Anti-Corruption Bureau^{33c}, and which states in Article 1.1 that “[t]he Central Anti-Corruption Bureau ... is established as a special service to combat corruption in public and economic life, particularly in public and local government institutions as well as to fight against activities detrimental to the economic interest of the State”^{33d}. In the 2022 Annual Rule of Law Report, the Commission finds that “The independence of main anti-corruption institutions remains an issue, considering in particular the subordination of the Central Anti-Corruption Bureau to the executive and the Minister of Justice also being the Prosecutor-General”.

^{33a} *Politico,*

<https://www.politico.eu/article/marian-banas-poland-takes-on-law-and-justice-government/>, 13 May 2021.

^{33b} *European Commission Rule of Law 2022 Report, Poland Specific Chapter,* https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg.16. “The independence of main anti-corruption institutions remains an issue, considering in particular the subordination of the Central Anti-Corruption Bureau to the executive and

the Minister of Justice also being the Prosecutor-General"

33c

https://www.cba.gov.pl/ftp/dokumenty_pdf/ACT_on_the_CBA_October_2016.pdf

33d

https://www.cba.gov.pl/ftp/dokumenty_pdf/ACT_on_the_CBA_October_2016.pdf, at Art. 1.1

Or. en

Amendment 157
Sophia in 't Veld

Motion for a resolution
Paragraph 13 b (new)

Motion for a resolution

Amendment

13 b. *It has been established that the CBA is a government controlled body^{1a} despite its title and its mandate which was established under the Act of 9 June 2006 on the Central Anti-Corruption Bureau^{1b}, and which states in Article 1.1 that “[t]he Central Anti-Corruption Bureau ... is established as a special service to combat corruption in public and economic life, particularly in public and local government institutions as well as to fight against activities detrimental to the economic interest of the State”^{1c}. In the 2022 Annual Rule of Law Report, the Commission finds that "The independence of main anti-corruption institutions remains an issue, considering in particular the subordination of the Central Anti-Corruption Bureau to the executive and the Minister of Justice also being the Prosecutor-General".*

^{1a} *Politico,*

<https://www.politico.eu/article/marian-banas-poland-takes-on-law-and-justice-government/>, 13 May 2021; *European*

*Commission Rule of Law 2022 Report,
Poland Specific Chapter,
https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf
at pg.16. "The independence of main
anti-corruption institutions remains an
issue, considering in particular the
subordination of the Central Anti-
Corruption Bureau to the executive and
the Minister of Justice also being the
Prosecutor-General"*

1b

https://www.cba.gov.pl/ftp/dokumenty_pdf/ACT_on_the_CBA_October_2016.pdf

1c

*https://www.cba.gov.pl/ftp/dokumenty_pdf/ACT_on_the_CBA_October_2016.pdf, at
Art. 1.1.*

Or. en

Amendment 158
Sophia in 't Veld

Motion for a resolution
Paragraph 13 c (new)

Motion for a resolution

Amendment

*13 c. The state capture of the judiciary
has been well established and confirmed
by a wide range of instances, including
the European Commission and the
European Court of Justice.*

Or. en

Amendment 159
**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja**
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 13 c (new)

Motion for a resolution

Amendment

13 c. *The state capture of the judiciary has been well established and confirmed by a wide range of instances, including the European Commission and the European Court of Justice.*

Or. en

Amendment 160

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 13 d (new)

Motion for a resolution

Amendment

13 d. *Not only has the legal and institutional context been created to enable near unlimited surveillance with spyware, virtually all parts of the process are also firmly controlled by the government parties. As a result, none of the safeguards that exist on paper, have any meaning in practice.*

Or. en

Amendment 161
Sophia in 't Veld

Motion for a resolution
Paragraph 13 d (new)

Motion for a resolution

Amendment

13 d. *Not only has the legal and institutional context been created to enable near unlimited surveillance with spyware, virtually all parts of the process are also firmly controlled by the government parties. As a result, none of the safeguards that exist on paper, have*

any meaning in practice.

Or. en

Amendment 162

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 14**

Motion for a resolution

14. ***Following the investigations of the Associated Press and the Citizen Lab researchers at the University of Toronto, it was revealed that at least three persons had been targeted in Poland in 2019³⁴. Those targets were namely opposition Senator Krzysztof Brejza, lawyer Roman Giertych, and prosecutor Ewa Wrzosek, who were hacked with Pegasus spyware that was obtained by the government in 2017³⁵. While the government has confirmed the purchase of the software from NSO group, it has not officially acknowledged that any specific persons were targeted. None of the targets mentioned below, have been formally charged with any crime, nor have they been summoned for questioning, nor has there been a request to lift the immunity of the targets who are holding political office.***

³⁴ The Guardian,
<https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware>, 17 February 2022.

³⁵ *Financieele Dagblad, 'De wereld deze week: het beste uit de internationale pers.'*
7 January, 2022.

Amendment

14. The Associated Press and the Citizen Lab researchers at the University of Toronto ***suspect*** that at least three persons had been targeted in Poland in 2019³⁴. Namely opposition Senator Krzysztof Brejza, lawyer Roman Giertych, and prosecutor Ewa Wrzosek. The government has confirmed the purchase of the software from NSO group, ***but*** it has not officially acknowledged that any specific persons were targeted. ***The alleged surveillance has also not yet been confirmed by independent expert witnesses.***

³⁴ The Guardian,
<https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware>, 17 February 2022.

Or. en

Amendment 163
Sophia in 't Veld

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Following the investigations of the Associated Press and the Citizen Lab researchers at the University of Toronto, it was revealed that at least three persons had been targeted in Poland in 2019³⁴. Those targets were namely opposition Senator Krzysztof Brejza, lawyer Roman Giertych, and prosecutor Ewa Wrzosek, *who* were hacked with Pegasus spyware that was obtained by the government in 2017³⁵. While the government has confirmed the purchase of the software from NSO group, it has not officially acknowledged that any specific persons were targeted. None of the targets mentioned below, have been formally charged with any crime, nor have they been summoned for questioning, nor has there been a request to lift the immunity of the targets who are holding political office.

³⁴ The Guardian, <https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware>, 17 February 2022.

³⁵ Financieele Dagblad, 'De wereld deze week: het beste uit de internationale pers.' 7 January, 2022.

Amendment

14. Following the investigations of the Associated Press and the Citizen Lab researchers at the University of Toronto, it was revealed that at least three persons had been targeted in Poland in 2019³⁴. Those targets were namely opposition Senator Krzysztof Brejza, lawyer Roman Giertych, and prosecutor Ewa Wrzosek. ***Whilst Citizen Lab could not specify who ordered the hacks of these targets^{34a}, there is a wide believe that Brejza, Giertych and Wrzosek*** were hacked with Pegasus spyware that was obtained by the government in 2017³⁵. While the government has confirmed the purchase of the software from NSO group, it has not officially acknowledged that any specific persons were targeted. None of the targets mentioned below, have been formally charged with any crime, nor have they been summoned for questioning, nor has there been a request to lift the immunity of the targets who are holding political office.

³⁴ The Guardian, <https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware>, 17 February 2022.

^{34a} ***AP News. AP Exclusive: Polish opposition duo hacked with NSO spyware.***

³⁵ Financieele Dagblad, 'De wereld deze week: het beste uit de internationale pers.' 7 January, 2022.

Or. en

Amendment 164

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arlukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Following the investigations of the Associated Press and the Citizen Lab researchers at the University of Toronto, it was revealed that at least three persons had been targeted in Poland in 2019³⁴. **Those targets were** namely **opposition** Senator Krzysztof Brejza, lawyer Roman Giertych, and prosecutor Ewa Wrzosek, who were hacked with Pegasus spyware that was obtained by the government in 2017³⁵. While the government has confirmed the purchase of the software from NSO group, it has not officially acknowledged that any specific persons were targeted. None of the targets **mentioned below**, have been formally charged with any crime, **nor** have they been summoned for questioning, nor has there been a request to lift the immunity of the targets who are holding **political** office.

³⁴ The Guardian, <https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware>, 17 February 2022.

³⁵ Financieele Dagblad, ‘De wereld deze week: het beste uit de internationale pers.’ 7 January, 2022.

Amendment

14. Following the investigations of the Associated Press and the Citizen Lab researchers at the University of Toronto, it was revealed that at least three persons had been targeted **with Pegasus** in Poland in 2019³⁴, namely **opposition's** Senator Krzysztof Brejza, lawyer Roman Giertych, and prosecutor Ewa Wrzosek, who were hacked with Pegasus spyware that was obtained by the government in 2017³⁵. While the government has confirmed the purchase of the software from NSO group, it has not officially acknowledged that any specific persons were targeted. None of the **three** targets have been formally charged with any crime, **neither** have they been summoned for questioning, nor has there been a request to lift the immunity of the targets who are holding **public** office **in relation to this case**.

³⁴ The Guardian, <https://www.theguardian.com/world/2022/feb/17/more-polish-opposition-figures-found-to-have-been-targeted-by-pegasus-spyware>, 17 February 2022.

³⁵ Financieele Dagblad, ‘De wereld deze week: het beste uit de internationale pers.’ 7 January, 2022.

Or. en

Amendment 165

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 14 a (new)

Motion for a resolution

Amendment

14 a. *Previously, Citizen Lab had detected a number of infections in Poland in late 2017; however, they were not able to identify the victims at that time.* ^{35a}

^{35a} AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021

Or. en

Amendment 166
Sophia in 't Veld

Motion for a resolution
Paragraph 14 a (new)

Motion for a resolution

Amendment

14 a. *Previously, Citizen Lab had detected a number of infections in Poland in late 2017; however, they were not able to identify the victims at that time*^{1a}.

^{1a} AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Or. en

Amendment 167

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 14 b (new)

Motion for a resolution

Amendment

14 b. The Polish Senate launched a Commission of Investigation into these attacks in early 2022 despite its lack of inquisitorial competences,^{35b} however they have been opposed at every turn by the ruling party in the Sejm (lower house) ^{35c}, which refuses to co-operate or conduct its own investigation. ^{35d 35e 35f 35g 35h}

^{35b} **European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27, footnote 220.**

^{35c} **Bloomberg, <https://www.bloomberg.com/news/articles/2022-01-03/polish-government-urged-to-probe-spyware-use-as-scandal-grows?leadSource=verify%20wall#xj4y7vzkg> , 3 January 2022.**

^{35d} **AP, <https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022.**

^{35e} **European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27.**

^{35f} **AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021**

^{35g} **The Guardian, ‘Polish senators draft law to regulate spyware after anti-Pegasus testimony’, 24 January 2022**

^{35h} **Politico, <https://www.politico.eu/article/polish-leader-jaroslav-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January**

2022.

Or. en

Amendment 168
Sophia in 't Veld

Motion for a resolution
Paragraph 14 b (new)

Motion for a resolution

Amendment

14 b. The Polish Senate launched a Commission of Investigation into these attacks in early 2022 despite its lack of inquisitorial competences^{1a}, however they have been opposed at every turn by the ruling party in the Sejm (lower house)^{1b}, which refuses to co-operate or conduct its own investigation^{1c}.

^{1a} *European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27, footnote 220.*

^{1b} *Bloomberg, <https://www.bloomberg.com/news/articles/2022-01-03/polish-government-urged-to-probe-spyware-use-as-scandal-grows?leadSource=verify%20wall#xj4y7vzkg>, 3 January 2022.*

^{1c} *AP, <https://apnews.com/article/technology-canada-europe-toronto-hacking-b5f7e36e8b22611aa6bfc27c17024422> 17 January 2022; European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 27; AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021; The Guardian, 'Polish*

senators draft law to regulate spyware after anti-Pegasus testimony', 24 January 2022; Politico, <https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

Or. en

Amendment 169

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Marcel Kolaja, Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 14 c (new)

Motion for a resolution

Amendment

14 c. *The use of spyware and efforts to control citizens must be seen in close connection with the election system. Several targets of Pegasus were somehow connected to elections: Senator Krzysztof Brejza (opposition leader), Roman Giertych (lawyer of Donald Tusk), Ewa Wrzosek (prosecutor investigating the postal voting for the presidential elections), Supreme Audit Office (NIK) (published reports on the postal vote for the presidential elections), and Michael Kolodziejczak (founding a new opposition party, competing for the same electorate as the governing parties).*

Or. en

Amendment 170

Sophia in 't Veld

Motion for a resolution

Paragraph 14 c (new)

Motion for a resolution

Amendment

14 c. The use of spyware and efforts to control citizens must be seen in close connection with the election system. Several targets of Pegasus were somehow connected to elections: Senator Krzysztof Brejza (opposition leader), Roman Giertych (lawyer of Donald Tusk), Ewa Wrzosek (prosecutor investigating the postal voting for the presidential elections), Supreme Audit Office (NIK) (published reports on the postal vote for the presidential elections), and Michael Kolodziejczak (founding a new opposition party, competing for the same electorate as the governing parties).

Or. en

**Amendment 171
Sophia in 't Veld**

**Motion for a resolution
Paragraph 14 d (new)**

Motion for a resolution

Amendment

14 d. At the same time, the National Electoral Commission has been politicised by virtue of the fact that is comprised of judges from the very courts that the ruling party have essentially taken over. Furthermore, the District Court in Warsaw responsible for the registration of new political parties^{1a} has been filled with government-loyal "neo-judges". In view of this, concerns exist whether the 2023 parliamentary elections will be truly free and fair. The situation must therefore be urgently clarified, so as not to cast any doubt on the integrity of the elections.

^{1a} Act of 27 June 1997 about Political Parties,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970980604/U/D19970604Lj.pdf>, at Art. 11.

Amendment 172

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 14 d (new)

Motion for a resolution

Amendment

14 d. At the same time, the National Electoral Commission has been politicised by virtue of the fact that is comprised of judges from the very courts that the ruling party have essentially taken over. Furthermore, the District Court in Warsaw responsible for the registration of new political parties ³⁵ⁱ has been filled with government-loyal "neo-judges". In view of this, concerns exist whether the 2023 parliamentary elections will be truly free and fair.

***³⁵ⁱ Act of 27 June 1997 about Political Parties,
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970980604/U/D19970604Lj.pdf>, at Art. 11.***

Or. en

Amendment 173

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk

on behalf of the ECR Group

Motion for a resolution

Paragraph 15

Motion for a resolution

Amendment

15. Senator Krzysztof Brejza was serving as campaign leader of the opposition party Civic Platform when he ***was the*** victim of hacking with spyware³⁶ .

15. Senator Krzysztof Brejza was serving as campaign leader of the opposition party Civic Platform when he ***allegedly fell*** victim of hacking with

There were 33 attacks on Brejza’s phone while he was running the Civic Platform campaign in 2019, with the attacks beginning on 26 April 2019 and continuing until 23 October 2019, just days after the end of the election cycle³⁷.

spyware³⁶.

³⁶ Haaretz, <https://www.haaretz.com/israel-news/tech-news/2022-04-05/ty-article-magazine/nso-pegasus-spyware-file-complete-list-of-individuals-targeted/0000017f-ed7a-d3be-ad7f-ff7b5a600000>, 5 April 2022.

³⁶ Haaretz, <https://www.haaretz.com/israel-news/tech-news/2022-04-05/ty-article-magazine/nso-pegasus-spyware-file-complete-list-of-individuals-targeted/0000017f-ed7a-d3be-ad7f-ff7b5a600000>, 5 April 2022.

³⁷ *The Guardian*, ‘More Polish opposition figures found to have been targeted by Pegasus spyware’, 17 February, 2022.

Or. en

Amendment 174

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Paragraph 15

Motion for a resolution

15. Senator Krzysztof Brejza was serving as campaign **leader** of the opposition party Civic Platform when he **was the** victim of hacking with spyware³⁶. There were 33 attacks on Brejza’s phone while he was running the Civic **Platform** campaign in 2019, with the attacks beginning on 26 April 2019 and continuing until 23 October 2019, just days after the end of the election cycle³⁷.

³⁶ Haaretz, <https://www.haaretz.com/israel-news/tech-news/2022-04-05/ty-article-magazine/nso-pegasus-spyware-file-complete-list-of-individuals-targeted/0000017f-ed7a-d3be-ad7f-ff7b5a600000>

Amendment

15. Senator Krzysztof Brejza was serving as **head of the election** campaign of the opposition party Civic Platform when he **became a** victim of hacking with **Pegasus** spyware³⁶. There were 33 attacks on Brejza’s phone while he was running the Civic **Platform’s** campaign **for parliamentary elections** in 2019, with the attacks beginning on 26 April 2019 and continuing until 23 October 2019, just days after the end of the election cycle³⁷.

³⁶ Haaretz, <https://www.haaretz.com/israel-news/tech-news/2022-04-05/ty-article-magazine/nso-pegasus-spyware-file-complete-list-of-individuals-targeted/0000017f-ed7a-d3be-ad7f-ff7b5a600000>

ff7b5a600000, 5 April 2022.

³⁷ The Guardian, ‘More Polish opposition figures found to have been targeted by Pegasus spyware’, 17 February, 2022.

ff7b5a600000, 5 April 2022.

³⁷ The Guardian, ‘More Polish opposition figures found to have been targeted by Pegasus spyware’, 17 February, 2022.

Or. en

Amendment 175

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 15 a (new)

Motion for a resolution

Amendment

15 a. As a direct result of the hacking of Brejza’s phone, text messages were allegedly stolen, doctored and subsequently aired on the state-controlled television network (TVP) ^{37a} ^{37b} during the 2019 elections in an alleged orchestrated smear campaign ^{37c}. This has caused Senator Brejza to call in to question the legitimacy of the 2019 election, which was narrowly won by the ruling PiS party. ^{37d}

^{37a} **European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 20 - 23.**

^{37b} **AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.**

^{37c} **AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021.**

^{37d} **Financieele Dagblad, <https://fd.nl/politiek/1426857/liberalen->**

Amendment 176
Sophia in 't Veld

Motion for a resolution
Paragraph 15 a (new)

Motion for a resolution

Amendment

15 a. *As a direct result of the hacking of Brejza's phone, text messages were allegedly stolen, doctored and subsequently aired on the state-controlled television network (TVP)^{1a} during the 2019 elections in an alleged orchestrated smear campaign^{1b}. This has caused Senator Brejza to call in to question the legitimacy of the 2019 election, which was narrowly won by the ruling PiS party^{1c}.*

^{1a} *European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 20 - 23; AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021*

^{1b} *AP, <https://apnews.com/article/technology-business-middle-east-elections-europe-c16b2b811e482db8fbc0bbc37c00c5ab>, 23 December 2021*

^{1c} *Financieele Dagblad, <https://fd.nl/politiek/1426857/liberalen-europarlement-eisen-onderzoek-naar-spionagesoftware>, 12 January 2022.*

Amendment 177
Sophia in 't Veld

Motion for a resolution
Paragraph 15 b (new)

Motion for a resolution

Amendment

15 b. *Although the PiS Government admits to obtaining Pegasus, it vehemently denies allegations that it was used for political purposes^{1a}. Kaczynski has neither confirmed nor denied targeting Brejza, but has alleged that the Senator was linked to “suspected crimes”, something Brejza strongly denies^{1b}. By the implication that Brejza was linked to criminal activity, it created circumstances through which the Polish government would have used Pegasus spyware for one of the grounds that the NSO group deem ‘legitimate’ when considering whether to sell their software to a government, namely the investigation of serious criminal activity^{1c}.*

^{1a} *Politico,*
<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/>, 7 January 2022.

^{1b} *Politico,*
<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/>, 7 January 2022.

^{1c} *BBC,*
<https://www.bbc.com/news/technology-57881364>, 19 July 2021.

Or. en

Amendment 178
Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 15 b (new)

Motion for a resolution

Amendment

15 b. *Although the PiS Government admits to obtaining Pegasus, it vehemently denies allegations that it was used for political purposes. Kaczynski has neither confirmed nor denied targeting Brejza, but has alleged that the Senator was linked to “suspected crimes”, something Brejza strongly denies. By the implication that Brejza was linked to criminal activity, it created circumstances through which the Polish government would have used Pegasus spyware for one of the grounds that the NSO group deem ‘legitimate’ when considering whether to sell their software to a government, namely the investigation of serious criminal activity.* ^{37e}

^{37e} *Politico,*

<https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/>, 7 January 2022.

Or. en

Amendment 179
Sophia in 't Veld

Motion for a resolution
Paragraph 15 c (new)

Motion for a resolution

Amendment

15 c. *At the time however, a criminal investigation into Senator Brejza’s father, Ryszard Brejza, was initiated. While serving as the mayor of Inowroclaw, a city in central Poland, Brejza Sr. was called in for questioning in relation to alleged mishandling of public funds and failing to carry out his duties^{1a}. This questioning occurred directly after Brejza Jr. initiated legal proceedings against Kaczynski for*

slander. Both Krzysztof and Ryszard Brejza have asserted that the charges against Brejza Sr. were a retaliation for the lawsuit.

*1a AP,
<https://apnews.com/article/technology-business-software-hacking-spyware-8cc528ba7d46a61b378adf1ede9dd00f>, 10 January 2022.*

Or. en

Amendment 180

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

**Motion for a resolution
Paragraph 15 c (new)**

Motion for a resolution

Amendment

15 c. At the time however, a criminal investigation into Senator Brejza's father, Ryszard Brejza, was initiated. While serving as the mayor of Inowroclaw, a city in central Poland, Brejza Sr. was called in for questioning in relation to alleged mishandling of public funds and failing to carry out his duties. This questioning occurred directly after Brejza Jr. initiated legal proceedings against Kaczynski for slander. Both Krzysztof and Ryszard Brejza have asserted that the charges against Brejza Sr. were a retaliation for the lawsuit.

Or. en

Amendment 181

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 15 d (new)

Motion for a resolution

Amendment

15 d. Ryszard Brejza himself received 10 text messages between July and August 2019 which Amnesty International's security lab deemed suspicious and matched the hallmarks of Pegasus.³⁷ⁱ The former assistant of Senator Brejza, Magdalena Losko, also received four suspicious text messages in April 2019 while running Senator Brejza's European Parliament Campaign, which, according to Amnesty International forensic examiners, were technically consistent with NSO group's spyware Pegasus.^{37j}

³⁷ⁱ *The Guardian*, 'More Polish opposition figures found to have been targeted by Pegasus spyware', 17 February, 2022.

^{37j} *Le Monde*, https://www.lemonde.fr/pixels/article/2022/07/18/affaire-pegasus-un-an-apres-le-crepuscule-de-nso-group_6135168_4408996.html, 18 July 2022.

Or. en

Amendment 182
Sophia in 't Veld

Motion for a resolution
Paragraph 15 d (new)

Motion for a resolution

Amendment

15 d. Ryszard Brejza himself received 10 text messages between July and August 2019 which Amnesty International's security lab deemed suspicious and matched the hallmarks of Pegasus^{1a}. The former assistant of Senator Brejza, Magdalena Losko, also received four suspicious text messages in April 2019

while running Senator Brejza's European Parliament Campaign, which, according to Amnesty International forensic examiners, were technically consistent with NSO group's spyware Pegasus^{1b}.

^{1a} The Guardian, 'More Polish opposition figures found to have been targeted by Pegasus spyware', 17 February, 2022; Le Monde, https://www.lemonde.fr/pixels/article/2022/07/18/affaire-pegasus-un-an-apres-le-crepuscule-de-nso-group_6135168_4408996.html, 18 July 2022.

^{1b} The Guardian, 'More Polish opposition figures found to have been targeted by Pegasus spyware', 17 February, 2022.

Or. en

Amendment 183

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 16**

Motion for a resolution

16. Roman Giertych *was targeted with Pegasus spyware during the concluding weeks of the 2019 parliamentary elections.* Between September and December of 2019, Giertych *was hacked as many as 18 times, the majority of which took place just before the October 13th 2019 election date. At that time, he was serving as the lawyer of opposition leader Donald Tusk. During that period, Giertych was also representing Radek Sikorski, the former Foreign Minister and current MEP with the European People's Party (EPP). Sikorski was taking a case to investigate the involvement of Kaczynski and his allies in illegal wiretapping that resulted in the recording and publication*

Amendment

16. Roman Giertych *allegedly fell victim to Pegasus spyware between September and December of 2019. Roman Giertych is a suspect in the investigation regarding the appropriation of property of great value in the amount of over PLN 72 million and causing large-scale property damage to a listed company, money laundering in the amount of almost PLN 5.2 million and causing damage to Polnord in the amount of PLN 4.5 million.*

*of the Minister's conversations*³⁸ .

³⁸ AP,

<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Or. en

Amendment 184

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 16

Motion for a resolution

16. Roman Giertych was targeted with Pegasus spyware during the concluding weeks of the 2019 parliamentary elections. Between September and December of 2019, Giertych was hacked as many as 18 times, the majority of which took place just before the October 13th 2019 election date. At that time, he was serving as the lawyer of opposition leader Donald Tusk. During that period, Giertych was also representing Radek Sikorski, the former Foreign Minister and current MEP with the European People's Party (EPP). Sikorski was taking a case to investigate the involvement of Kaczynski and his allies in illegal wiretapping that resulted in the recording and publication of the Minister's conversations³⁸.

³⁸ AP,

<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Amendment

16. Roman Giertych was targeted with Pegasus spyware during the concluding weeks of the 2019 parliamentary elections. Between September and December of 2019, **Roman** Giertych was hacked as many as 18 times, the majority of which took place just before the October 13th 2019 election date. At that time, he was serving as the lawyer of opposition leader Donald Tusk. During that period, **Roman** Giertych was also representing Radek Sikorski, the former Foreign Minister and current MEP with the European People's Party (EPP). **Radek** Sikorski was taking a case to investigate the involvement of **Jaroslav** Kaczynski and his allies in illegal wiretapping that resulted in the recording and publication of the Minister's conversations³⁸.

³⁸ AP,

<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e>, 21 December 2021.

Or. fr

Amendment 185

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 16

Motion for a resolution

16. Roman Giertych was targeted with Pegasus spyware during the **concluding** weeks of the 2019 parliamentary elections. Between September and December of 2019, Giertych was hacked as many as 18 times, the majority of which took place just before the October 13th 2019 election date. At that time, he was serving as the lawyer of opposition leader Donald Tusk. During that period, Giertych was also representing **Radek Sikorski, the** former Foreign Minister and **current** MEP with the European People's Party (EPP). **Sikorski was taking** a case **to investigate the involvement of Kaczynski and his allies in** illegal wiretapping that resulted in the recording and publication of the Minister's conversations³⁸.

³⁸ AP, <https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Amendment

16. Roman Giertych was targeted with Pegasus spyware during the **last** weeks of the 2019 parliamentary elections. Between September and December of 2019, Giertych was hacked as many as 18 times, the majority of which took place just before the October 13th 2019 election date. At that time, he was serving as the lawyer of opposition leader **and former Prime Minister** Donald Tusk **of Civic Platform**. During that period, Giertych was also representing **Radosław** Sikorski, former Foreign Minister and **currently** MEP with the European People's Party (EPP), **in** a case **concerning** illegal wiretapping that resulted in the recording and publication of the Minister's conversations³⁸.

³⁸ AP, <https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Or. en

Amendment 186

Sophia in 't Veld

Motion for a resolution

Paragraph 16 a (new)

Motion for a resolution

Amendment

16 a. As with the case of Senator Brejza, the government would neither confirm nor deny whether they were responsible for these attacks. It was reported by the Associated Press that a motion seeking the arrest of Giertych was filed by a prosecutor, regarding an alleged financial crimes investigation, just a matter of hours before state security spokesperson Stanislaw Zaryn responded to questions from the AP regarding the hacking of Giertych's phone. Giertych vehemently denies these allegations. Zaryn refused to comment on the possible connection between these incidents. In a similar incident, Giertych's home was raided and searched by CBA officials in 2020^{1a}.

^{1a} AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Or. en

Amendment 187

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 16 a (new)

Motion for a resolution

Amendment

16 a. As with the case of Senator Brejza, the government would neither confirm nor deny whether they were responsible for these attacks. It was reported by the Associated Press that a motion seeking the arrest of Giertych was filed by a prosecutor regarding an alleged financial crimes investigation, which Giertych vehemently denies, just a matter of hours before state security spokesperson Stanislaw Zaryn responded to questions

from the AP regarding the hacking of Giertych's phone. Zaryn refused to comment on the possible connection between these incidents. In a similar incident, Giertych's home was raided and searched by CBA officials in 2020. ^{38a}

^{38a} AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

Or. en

Amendment 188

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 16 b (new)

Motion for a resolution

Amendment

16 b. *Additionally during this time in 2019, Giertych was representing Gerald Birgfellner, an Austrian developer. Birgfellner had been involved in investigating a property for PiS leader Kaczynski, with whom he has family ties, when the deal went sour. Following the release of recorded conversations between the two, a political scandal erupted for Kaczynski who then quickly ended all interest in the property. Birgfellner alleges that he was never paid for his services and so engaged Giertych. Minister for Justice and Prosecutor General Zbigniew Ziobro also commented in 2021 that he was seeking to bring charges against Giertych “with the suspicion of committing criminal crimes”.*^{38b}

^{38b} AP,

<https://apnews.com/article/elections-international-news-jaroslav-kaczynski-european-parliament-poland-bed5ffc814e649f4bb4d10f82628b4c2> , 16 February 2019.

Or. en

Amendment 189
Sophia in 't Veld

Motion for a resolution
Paragraph 16 b (new)

Motion for a resolution

Amendment

16 b. Additionally during this time in 2019, Giertych was representing Gerald Birgfellner, an Austrian developer. Birgfellner had been involved in investigating a property for PiS leader Kaczynski, with whom he has family ties, when the deal went sour. Following the release of recorded conversations between the two, a political scandal erupted for Kaczynski who then quickly ended all interest in the property. Birgfellner alleges that he was never paid for his services and so engaged Giertych^{1a}. Minister for Justice and Prosecutor General Zbigniew Ziobro also commented in 2021 that he was seeking to bring charges against Giertych “with the suspicion of committing criminal crimes”^{1b}.

^{1a} AP,
<https://apnews.com/article/elections-international-news-jaroslav-kaczynski-european-parliament-poland-bed5ffc814e649f4bb4d10f82628b4c2> , 16 February 2019; TVP World,
<https://tvpworld.com/41262080/ruling-party-leader-im-no-dictator> , 11 February 2019.

^{1b} TVP Info,
<https://www.tvp.info/57607147/zaryn-ws->

Amendment 190

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution Paragraph 17

Motion for a resolution

17. Prosecutor Ewa Wrzosek *was the victim of hacking with Pegasus spyware as many as 6 times* between the 24th of June and the 19th of August 2020³⁹. Wrzosek is a member of Lex Super Omnia, which is a group comprised of prosecutors *working for the independence of the office of the prosecutor. She was investigating the safety of conducting Presidential elections in the midst of the global COVID-19 pandemic when she was stripped of the case, which was subsequently dropped, and sent away to the city of Srem with 48 hours' notice. It is within the growing power of the PiS Prosecutor General, Zbigniew Ziobro, to elect not to prosecute certain cases or to remove subordinate prosecutors from files*⁴⁰. *It was upon Wrzosek's return to Warsaw that she was targeted with spyware. The Polish authorities followed the pattern of declining to confirm or deny their responsibility*^{41 42}.

³⁹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

⁴⁰ *European Commission Rule of Law 2022 Report, Poland Specific Chapter,*

Amendment

17. Prosecutor Ewa Wrzosek *allegedly fell* victim *to* Pegasus between the 24th of June and the 19th of August 2020³⁹. Wrzosek is a member of Lex Super Omnia, which is a group comprised of prosecutors *with a clear political orientation, opposing the reforms of the justice system introduced by Law and Justice. Ewa Wrzosek is under investigation for the disclosure of secrets of the investigation; Proceedings are also pending regarding the violation of the dignity of the prosecutor's office, related to her political involvement, which is incompatible with the function performed.*

³⁹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 16.

⁴¹ AP,

<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e>, 21 December 2021.

⁴² *The Guardian*,

<https://www.theguardian.com/world/2022/jan/24/polish-senators-draft-law-to-regulate-spyware-after-anti-pegasus-testimony>, 24 January 2022.

Or. en

Amendment 191

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Henna Virkkunen, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 17

Motion for a resolution

17. Prosecutor Ewa Wrzosek was the victim of hacking with Pegasus spyware as many as 6 times between the 24th of June and the 19th of August 2020³⁹. Wrzosek is a member of Lex Super Omnia, **which is a group comprised** of prosecutors working for the independence of the office of the prosecutor. She was investigating the **safety of conducting** Presidential elections in the midst of the global COVID-19 pandemic when she was stripped of the case, which was subsequently dropped, **and sent away to the city of Srem with 48 hours' notice**. It is within the **growing power** of the **PiS** Prosecutor General, Zbigniew Ziobro, to **elect** not to prosecute certain cases or to remove subordinate prosecutors from **files**⁴⁰. It was upon Wrzosek's return to Warsaw that she was targeted with spyware. The Polish authorities followed the pattern of

Amendment

17. Prosecutor Ewa Wrzosek was the victim of hacking with Pegasus spyware as many as 6 times between the 24th of June and the 19th of August 2020³⁹. Wrzosek is a member of Lex Super Omnia, **an association** of prosecutors working for the independence of the office of the prosecutor. She was investigating the **decision to hold the 2020** presidential elections **in Poland** in the midst of the global COVID-19 pandemic when she was stripped of the case, which was subsequently dropped. It is within the **powers** of the Prosecutor General, Zbigniew Ziobro, to **decide** not to prosecute certain cases or to remove subordinate prosecutors from **particular cases**⁴⁰. **Afterwards, prosecutor Wrzosek was sent away, with only 48-hours notice, to another prosecutor's office in a city several hours away from her home**. It was

declining to confirm or deny their responsibility^{41 42} .

upon Wrzosek's return to Warsaw that she was targeted with **Pegasus** spyware. The Polish authorities followed the pattern of declining to confirm or deny their responsibility^{41 42} .

³⁹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

⁴⁰ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 16.

⁴¹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> , 21 December 2021.

⁴² The Guardian,
<https://www.theguardian.com/world/2022/jan/24/polish-senators-draft-law-to-regulate-spyware-after-anti-pegasus-testimony> , 24 January 2022.

³⁹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

⁴⁰ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf at pg. 16.

⁴¹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> , 21 December 2021.

⁴² The Guardian,
<https://www.theguardian.com/world/2022/jan/24/polish-senators-draft-law-to-regulate-spyware-after-anti-pegasus-testimony> , 24 January 2022.

Or. en

Amendment 192

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 17

Motion for a resolution

17. Prosecutor Ewa Wrzosek was the victim of hacking with Pegasus spyware as many as 6 times between the 24th of June and the 19th of August 2020³⁹. Wrzosek is a member of Lex Super Omnia, which is a group comprised of prosecutors working for the independence of the office of the prosecutor. She was investigating the safety of conducting Presidential elections

Amendment

17. Prosecutor Ewa Wrzosek was the victim of hacking with Pegasus spyware as many as 6 times between the 24th of June and the 19th of August 2020³⁹. **Eva** Wrzosek is a member of Lex Super Omnia, which is a group comprised of prosecutors working for the independence of the office of the prosecutor. She was investigating the safety of conducting Presidential elections

in the midst of the global COVID-19 pandemic when she was stripped of the case, which was subsequently dropped, and sent away to the city of Srem with 48 hours' notice. It is within the growing power of the *PiS* Prosecutor General, Zbigniew Ziobro, to elect not to prosecute certain cases or to remove subordinate prosecutors from files⁴⁰. It was upon Wrzosek's return to Warsaw that she was targeted with spyware. The Polish authorities followed the pattern of declining to confirm or deny their responsibility^{41,42}.

³⁹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> 21 December 2021.

⁴⁰ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf *at pg.* 16.

⁴¹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e> , 21 December 2021.

⁴² The Guardian,
<https://www.theguardian.com/world/2022/jan/24/polish-senators-draft-law-to-regulate-spyware-after-anti-pegasus-testimony> , 24 January 2022.

in the midst of the global COVID-19 pandemic when she was stripped of the case, which was subsequently dropped, and sent away to the city of Srem with 48 hours' notice. It is within the growing power of the Prosecutor General, Zbigniew Ziobro, to elect not to prosecute certain cases or to remove subordinate prosecutors from files⁴⁰. It was upon *Eva Wrzosek*'s return to Warsaw that she was targeted with spyware. The Polish authorities followed the pattern of declining to confirm or deny their responsibility⁴¹.

³⁹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e>, 21 December 2021.

⁴⁰ European Commission Rule of Law 2022 Report, Poland Specific Chapter, https://ec.europa.eu/info/sites/default/files/48_1_194008_coun_chap_poland_en.pdf, *p.* 16.

⁴¹ AP,
<https://apnews.com/article/technology-business-poland-hacking-warsaw-8b52e16d1af60f9c324cf9f5099b687e>, 21 December 2021.

Or. fr

Amendment 193 **Sophia in 't Veld**

Motion for a resolution **Paragraph 17 a (new)**

Motion for a resolution

Amendment

17 a. As highlighted by Prosecutor Wrzosek during the PEGA Committee meeting of 19 January 2023, she is currently being charged by the prosecutors office for revealing information on the cases she was working on, and with being involved in political activity. Mrs Wrzosek is unable to build her legal defence, as the prosecutors' office denies access to documents^{1a}. This is a clear violation of the right to a fair trial, and it creates the impression the only purpose of the case is to discredit Mrs Wrzosek.

^{1a} PEGA Committee meeting, 19 January 2023.

Or. en

Amendment 194

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 17 a (new)

Motion for a resolution

Amendment

17 a. On 19 January 2023, Ewa Wrzosek appeared before the PEGA Committee again to report on the latest developments regarding her case. She stated that after months of denial, the Polish authorities had admitted to the hacking of her phone and subsequently opened a case against her. Wrzosek is refuting the accusations against her.

Or. en

Amendment 195
Sophia in 't Veld

Motion for a resolution
Paragraph 17 b (new)

Motion for a resolution

Amendment

17 b. Mrs Wrzosek has also launched a legal complaint concerning the Pegasus infection of her mobile phone. The court has ordered an expert opinion by Citizen Lab on the Pegasus infection and Mrs Wrzosek herself requested that her phone was checked by the experts of Citizen Lab. However, the prosecutor denied this request and selected another expert that was unable to link any infection to Pegasus. The prosecutor moreover requested the telecom operator to hand over all metadata relating to Mrs Wrzosek, for a period that is irrelevant to the court investigations. Wrzosek considers that she is still under surveillance and that the prosecutor's procedure is aimed at providing additional evidence that could be used against her in other cases^{1a}.

^{1a} PEGA Committee meeting, 19 January 2023

Or. en

Amendment 196
Róza Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution
Subheading 19

Motion for a resolution

Amendment

Supreme Audit Office

deleted

Or. en

Amendment 197
Róza Thun und Hohenstein, Dragoş Tudorache

Motion for a resolution
Paragraph 18

Motion for a resolution

18. *The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the PiS government in these cases of hacking, despite being a former ally of the party⁴⁴.*

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ *Politico*,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

Amendment

deleted

Or. en

Amendment 198
Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution
Paragraph 18

Motion for a resolution

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the PiS government in these cases of hacking, despite being a former ally of the party⁴⁴.

Amendment

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the PiS government in these cases of hacking, despite being a former ally of the party⁴⁴. ***It in fact was NIK that uncovered invoices for the 'purchase of special technology***

equipment for the detection and prevention of crime' amounting to a total of PLN 25 million.

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ Politico,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ Politico,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

Or. pl

Amendment 199

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukáš Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution Paragraph 18

Motion for a resolution

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the PiS government in these cases of hacking, despite being a former ally of the party⁴⁴.

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ Politico,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

Amendment

18. The function of NIK - *the Supreme Audit Office* - , as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the PiS government in these cases of hacking, despite being a former ally of the party⁴⁴.

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ Politico,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

Or. en

Amendment 200

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution
Paragraph 18

Motion for a resolution

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the **PiS** government in these cases of hacking, despite being a former ally of the party⁴⁴.

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ Politico,
<https://www.politico.eu/article/polish-leader-jaroslav-kaczynski-under-fire-over-pegasus-hack-scandal/> , 18 January 2022.

Amendment

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the government in these cases of hacking, despite being a former ally of the party⁴⁴.

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ Politico,
<https://www.politico.eu/article/polish-leader-jaroslav-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

Or. fr

Amendment 201
Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution
Paragraph 18

Motion for a resolution

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³ **and has been pushing back against the erosion of the rule of law, and leading the charge for accountability from the PiS government in these cases of hacking, despite being a former ally of the party⁴⁴ .**

⁴³ <https://www.nik.gov.pl/en/about-us/>

Amendment

18. The function of NIK, as one of the oldest institutions in Poland, is to safeguard public spending and management of public services. Marian Banās is currently serving as the head of the body⁴³. ***The allegations of surveillance of the head of NIK, Marian Banaś, have not been confirmed by any credible entity and turned out to be just another attempt by Mr. Banaś to attack the Polish government.***

⁴³ <https://www.nik.gov.pl/en/about-us/>

⁴⁴ *Politico*,
<https://www.politico.eu/article/polish-leader-jaroslaw-kaczynski-under-fire-over-pegasus-hack-scandal/>, 18 January 2022.

Or. en

Amendment 202

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution **Paragraph 18 a (new)**

Motion for a resolution

Amendment

18 a. *The media have previously reported that Banās has links with a fraudulent VAT scheme during that was allegedly run by his close associate out of the finance ministry during tenure as Minister of Finance. It was additionally reported at that time that Banās owned a building in Krakow that was being run as a “by-the-hour” hotel by a person with criminal ties.* ^{44a}

^{44a} *Politico*,
<https://www.politico.eu/article/marian-banas-poland-takes-on-law-and-justice-government/>, 13 May 2021.

Or. en

Amendment 203 **Sophia in 't Veld**

Motion for a resolution **Paragraph 18 a (new)**

Motion for a resolution

Amendment

18 a. *The media have previously*

reported that Banās has links with a fraudulent VAT scheme that was allegedly run by his close associate out of the finance ministry during tenure as Minister of Finance. It was additionally reported at that time that Banās owned a building in Krakow that was being run as a “by-the-hour” hotel by a person with criminal ties^{1a}.

*^{1a} Politico,
<https://www.politico.eu/article/marian-banas-poland-takes-on-law-and-justice-government/>, 13 May 2021.*

Or. en

Amendment 204
Sophia in 't Veld

Motion for a resolution
Paragraph 18 b (new)

Motion for a resolution

Amendment

18 b. *The timing of the attacks is particularly relevant given the nature of the investigation NIK was conducting. The spokesperson for NIK confirmed that it was investigating the cancellation of the Presidential elections in 2020. The results of this probe saw the Prime Minister, members of his government, and a Justice Ministry Fund served with notifications of crimes. This had led to further allegations of the PiS government using Pegasus for political reasons, which they deny as “fake news”^{1a}.*

*^{1a} Notes from Poland,
<https://notesfrompoland.com/2022/02/07/polish-state-auditor-claims-7300-cyberattacks-made-against-it-including-suspected-use-of-pegasus/>, 7 February 2022.*

Amendment 205

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 18 b (new)

Motion for a resolution

Amendment

18 b. The timing of the attacks is particularly relevant given the nature of the investigation NIK was conducting. The spokesperson for NIK, confirmed that it was investigating the cancellation of the Presidential elections in 2020. The results of this probe saw the Prime Minister, members of his government, and a Justice Ministry Fund served with notifications of crimes. This had led to further allegations of the PiS government using Pegasus for political reasons, which they deny as “fake news”. ^{44b}

^{44b} *Notes from Poland, <https://notesfrompoland.com/2022/02/07/polish-state-auditor-claims-7300-cyberattacks-made-against-it-including-suspected-use-of-pegasus/>, 7 February 2022*

Amendment 206

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 18 c (new)

Motion for a resolution

Amendment

18 c. Previously, the Sejm has considered stripping Banas of the immunity from prosecution that he enjoys as head of NIK following a motion filed by Minister of Justice Zbigniew Ziobro in his role as Prosecutor General. Security spokesperson Zaryn reported that prosecutors were seeking to charge Banas in relation to a number of financial crimes including false tax declarations. ^{44c}

^{44c} *TVP World*,
<https://tvpworld.com/55013822/prosecutors-office-calls-for-stripping-supreme-audit-office-head-of-his-immunity> 23 July 2021.

Or. en

**Amendment 207
Sophia in 't Veld**

**Motion for a resolution
Paragraph 18 c (new)**

Motion for a resolution

Amendment

18 c. Following a motion filed by Minister of Justice Zbigniew Ziobro in his role as Prosecutor General^{1a}, the Sejm has considered stripping Banas of the immunity from prosecution that he enjoys as head of NIK. Security spokesperson Zaryn reported that prosecutors were seeking to charge Banas in relation to a number of financial crimes including false tax declarations^{1b}.

^{1a} *TVP World*,
<https://tvpworld.com/55013822/prosecutors-office-calls-for-stripping-supreme-audit-office-head-of-his-immunity> 23 July 2021.

^{1b} *Notes from Poland*,
<https://notesfrompoland.com/2022/02/07/polish-state-auditor-claims-7300-cyberattacks-made-against-it-including-suspected-use-of-pegasus/>, 7 February

Amendment 208

**Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield,
Jordi Solé, Marcel Kolaja**

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 18 d (new)

Motion for a resolution

Amendment

18 d. In July 2021, Banas' son Jakub was arrested and detained by the CBA in relation to a number of alleged financial crimes linked with his father and NIK. In May 2021, Jakub was subject to a raid by the CBA. Banas believes this repeated targeting of his family is politically motivated in order to force his resignation. ^{44e}

^{44e} *Polish News,*

<https://polishnews.co.uk/jakub-banas-son-of-marian-banas-the-head-of-the-supreme-audit-office-was-arrested-by-the-central-anticorruption-bureau/>, 23 July 2021.

Amendment 209

Sophia in 't Veld

Motion for a resolution

Paragraph 18 d (new)

Motion for a resolution

Amendment

18 d. In July 2021, Banas' son Jakub was arrested and detained by the CBA in relation to a number of alleged financial crimes linked with his father and NIK^{1a}.

In May 2021, Jakub was subject to a raid by the CBA. Banas believes this repeated targeting of his family is politically motivated in order to force his resignation^{1b}.

*^{1a} Polish News,
<https://polishnews.co.uk/jakub-banas-son-of-marian-banas-the-head-of-the-supreme-audit-office-was-arrested-by-the-central-anticorruption-bureau/>, 23 July 2021.*

*^{1b} Politico,
<https://www.politico.eu/article/marian-banas-poland-takes-on-law-and-justice-government/>, 13 May 2021.*

Or. en

Amendment 210

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Jordi Solé, Marcel Kolaja, Gwendoline Delbos-Corfield
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 18 e (new)

Motion for a resolution

Amendment

18 e. It is clear that the government is making every effort to obstruct the scrutiny carried out by NIK of the purchase and use of Pegasus.

Or. en

Amendment 211
Sophia in 't Veld

Motion for a resolution
Paragraph 18 e (new)

Motion for a resolution

Amendment

18 e. It is clear that the government is making every effort to obstruct the scrutiny carried out by NIK of the purchase and use of Pegasus.

Or. en

Amendment 212

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Subheading 20

Motion for a resolution

Amendment

PiS Associates

deleted

Or. fr

Amendment 213

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 19

Motion for a resolution

Amendment

19. It is believed by some that Pegasus was used for the ‘preventive tapping’ of leaders and organisers of street protests, responding to the reforms of the Constitutional Court implemented by the PiS party. However, it is not only opponents of the ruling party that may have fallen victim to Pegasus. Adam Hofman, former PiS party spokesperson also alleges that his own colleagues spied upon him in 2018, making him one of the first targets following the purchase of the spyware. Hofman founded R4S, a PR company, after being expelled from the PiS party⁴⁵⁴⁶. Reportedly, this action agitated the ruling party and made Hofman a target for surveillance. He states that the information obtained about him was subsequently used in a smear

campaign against him.

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<https://wyborcza.pl/7,173236,28015977,polish-state-surveilled-nearly-50-targets-with-pegasus-spyware.html?disableRedirects=true>

⁴⁶ Rzeczpospolita,
<https://www.rp.pl/polityka/art4805251-hofman-usuniety-z-pis-decyzja-w-sprawie-hofmana> , 11 October 2014.

Or. fr

Amendment 214

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 19**

Motion for a resolution

Amendment

19. It is believed by some that Pegasus was used for the ‘preventive tapping’ of leaders and organisers of street protests, responding to the reforms of the Constitutional Court implemented by the PiS party. However, it is not only opponents of the ruling party that may have fallen victim to Pegasus. Adam Hofman, former PiS party spokesperson also alleges that his own colleagues spied upon him in 2018, making him one of the first targets following the purchase of the spyware. Hofman founded R4S, a PR company, after being expelled from the PiS party^{45 46}. Reportedly, this action agitated the ruling party and made Hofman a target for surveillance. He states that the information obtained about him was subsequently used in a smear campaign against him. *deleted*

45

<https://wyborcza.pl/7,173236,28015977,polish-state-surveilled-nearly-50-targets-with-pegasus-spyware.html?disableRedirects=true>

lish-state-surveilled-nearly-50-targets-with-pegasus-spyware.html?disableRedirects=true

⁴⁶ *Rzeczpospolita, <https://www.rp.pl/polityka/art4805251-hofman-usuniety-z-pis-decyzja-w-sprawie-hofmana>, 11 October 2014.*

Or. en

Amendment 215

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 19 a (new)

Motion for a resolution

Amendment

19 a. In addition, former PiS Member of Parliament Mariusz Antoni Kaminski and former PiS Minister of the State Treasury Dawid Jackiewicz were allegedly targeted with Pegasus by the government. Mariusz A. Kaminski was cast out of the PiS party as a result of being embroiled in a scandal at the same time as Hofman, however Jackiewicz remains a member of the ruling party despite his sudden step back from his ministerial role. ^{46a}

^{46a}

<https://wiadomosci.onet.pl/kraj/pegasus-oto-kolejne-osoby-ktore-mialy-byc-inwigilowane-przez-sluzby-pis/yvt6tym>

Or. en

Amendment 216 Sophia in 't Veld

Motion for a resolution Paragraph 19 a (new)

19 a. *In addition, former PiS Member of Parliament Mariusz Antoni Kaminski and former PiS Minister of the State Treasury Dawid Jackiewicz were allegedly targeted with Pegasus by the government^{1a}. Mariusz A. Kaminski was cast out of the PiS party as a result of being embroiled in a scandal at the same time as Hofman, however Jackiewicz remains a member of the ruling party despite his sudden step back from his ministerial role^{1b}.*

1a

<https://wiadomosci.onet.pl/kraj/pegasus-oto-kolejne-osoby-ktore-mialy-byc-inwigilowane-przez-sluzby-pis/yvt6tym>

^{1b} <https://nextvame.com/dawid-jackiewicz-is-back-jaroslaw-kaczynski-confirms-the-reports/>

Or. en

Amendment 217

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 19 b (new)

19 b. *A similar smear campaign was also conducted against the former President of the Employers of the Republic of Poland, Mr. Andrzej Malinowski, in February 2018 by the ruling party. He testified in front of a special sitting of a Senate Committee in April 2022 regarding the hacking of his phone with Pegasus in order to collect the information for this public takedown. He outlined that messages were taken from his WhatsApp and SMS through Pegasus*

and were strategically used to spread online hate against him. This attack was retaliation for disagreeing with the ruling party and demanding alternative economic policies.

Or. en

Amendment 218
Sophia in 't Veld

Motion for a resolution
Paragraph 19 b (new)

Motion for a resolution

Amendment

19 b. A similar smear campaign was also conducted against the former President of the Employers of the Republic of Poland, Mr. Andrzej Malinowski, in February 2018 by the ruling party. He testified in front of a special sitting of a Senate Committee in April 2022 regarding the hacking of his phone with Pegasus in order to collect the information for this public takedown^{1a}. He outlined that messages were taken from his WhatsApp and SMS through Pegasus and were strategically used to spread online hate against him. This attack was retaliation for disagreeing with the ruling party and demanding alternative economic policies.

^{1a} <https://www.senat.gov.pl/prace/komisje-senackie/przebieg,9668,1.html>

Or. en

Amendment 219
Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution
Subheading 21

Motion for a resolution

Amendment

Connection with Smear Campaigns

deleted

Or. en

Amendment 220

Vladimír Bilčík, Juan Ignacio Zoido Álvarez, Andrzej Halicki, Bartosz Arłukowicz, Radosław Sikorski, Lukas Mandl, Gabriel Mato, Karolin Braunsberger-Reinhold

Motion for a resolution

Paragraph 20

Motion for a resolution

Amendment

20. For weeks on end, Senator Brejza was the target of a smear campaign that made use of material obtained through the use of spyware. It is remarkable that such material was made public via public television. **How can** it be explained **that a** public broadcaster gets access to such material? If the Pegasus hack of Senator Brejza had indeed been a matter of national security, as the government seems to **half and half** suggest, it would be a very serious crime to leak the material obtained in a secret security operation. The fact that the public broadcaster is also captured by the government party, rather points in the direction of a smear campaign orchestrated by the government parties.

20. For weeks on end, Senator Brejza was the target of a smear campaign that made use of material obtained through the use of **Pegasus** spyware. It is remarkable that such material was made public via public television. It **cannot be** explained **how** public broadcaster gets access to such material. If the Pegasus hack of Senator Brejza had indeed been a matter of national security, as the government seems to suggest, it would be a very serious crime to leak the material obtained in a secret security operation. The fact that the public broadcaster is also captured by the government party, rather points in the direction of a smear campaign orchestrated by the government parties.

Or. en

Amendment 221

Bartosz Arłukowicz, Andrzej Halicki, Radosław Sikorski

Motion for a resolution

Paragraph 20 a (new)

Motion for a resolution

Amendment

20 a. The collection of telecommunications or internet data may

constitute an invasion of an individual's privacy just as severe as the imposition of operational surveillance on that individual A mechanism should therefore be introduced to notify persons whose data has been collected of this fact. In order to protect citizens of EU countries whose authorities, like those in Poland, do not respect citizens' fundamental rights, consideration should be given to the possibility of setting up a European body to provide technical and legal assistance to victims of surveillance- and espionage-related crimes.

Or. pl

Amendment 222
Sophia in 't Veld

Motion for a resolution
Paragraph 21

Motion for a resolution

21. Hungary was one of the first countries to be embroiled in the European spyware scandal. In 2021, it was revealed by the Pegasus Project that **a number of** Hungarian phone numbers were **listed among the 50 000 identified as potentially hacked by the NSO product**. It has since been confirmed by Amnesty International⁴⁷ that over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers, entrepreneurs and a former government minister⁴⁸.

⁴⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says

Amendment

21. Hungary was one of the first countries to be embroiled in the European spyware scandal. In 2021, it was revealed by the Pegasus Project that **several** Hungarian phone numbers were **included in a leaked list of 50,000 phone numbers**. **Although it was not clear if these phone numbers were actually targeted in the past, potential targets for the future, or neither of these scenarios^{1a}**, it has since been confirmed by Amnesty International⁴⁷ that over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers, entrepreneurs and a former government minister⁴⁸.

^{1a} **Zero Day. The NSO “Surveillance List”: What It Is and Isn’t.**

⁴⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says

government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

Or. en

Amendment 223

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution

Paragraph 21

Motion for a resolution

21. ***Hungary was one of the first countries to be embroiled in the European spyware scandal.*** In 2021, ***it was revealed by*** the Pegasus Project that a number of Hungarian phone numbers were listed among the 50 000 identified as potentially hacked by the NSO product. ***It has since been confirmed by*** Amnesty International⁴⁷ ***that*** over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers, entrepreneurs and a former government minister⁴⁸.

⁴⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

Amendment

21. In 2021, the Pegasus Project ***claimed*** that a number of Hungarian phone numbers were listed among the 50 000 identified as potentially hacked by the NSO product. ***According to*** Amnesty International⁴⁷, over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers, entrepreneurs and a former government minister⁴⁸.

⁴⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

Or. en

Amendment 224

Gilles Lebreton, Christine Anderson, Mathilde Androuët

Motion for a resolution

Paragraph 21

Motion for a resolution

21. ***Hungary was one of the first countries to be embroiled in the European spyware scandal.*** In 2021, it was revealed by the Pegasus Project that a number of Hungarian phone numbers were listed among the **50 000** identified as potentially hacked by the NSO product. It has since been confirmed by Amnesty International⁴⁷ that over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers, entrepreneurs and a former government minister⁴⁸.

⁴⁷ Euractiv, 'Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

Amendment

21. In 2021, it was revealed by the Pegasus Project that a number of Hungarian phone numbers were listed among the **50 000** identified as potentially hacked by the NSO product. It has since been confirmed by Amnesty International⁴⁷ that over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers, entrepreneurs and a former government minister⁴⁸.

⁴⁷ Euractiv, 'Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

Or. fr

Amendment 225

Hannes Heide, Sylvie Guillaume, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Katarina Barley, Łukasz Kohut

**Motion for a resolution
Paragraph 21**

Motion for a resolution

21. Hungary was one of the first countries to be embroiled in the European spyware scandal. In 2021, it was revealed by the Pegasus Project that a number of Hungarian phone numbers were listed among the 50 000 identified as potentially hacked by the NSO product. It has since been confirmed by Amnesty International⁴⁷ that over 300 Hungarians have fallen victim to Pegasus, including political activists, journalists, lawyers,

Amendment

21. Hungary was one of the first countries to be embroiled in the European spyware scandal. In 2021, it was revealed by the Pegasus Project that a number of Hungarian phone numbers were listed among the 50 000 identified as potentially hacked by the NSO product. It has since been confirmed by Amnesty International⁴⁷ that over 300 Hungarians have fallen victim to Pegasus, including political activists, **investigative** journalists, lawyers,

entrepreneurs and a former government minister⁴⁸.

entrepreneurs, *an opposition politician* and a former government minister⁴⁸.

⁴⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁴⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

⁴⁸ DW, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29 January 2022.

Or. en

Amendment 226

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 21 a (new)

Motion for a resolution

Amendment

21 a. The use of Pegasus in Hungary appears to be part of a calculated and strategic destruction of media freedom and freedom of expression by the government.^{48a} The Fidesz government has utilised this spyware in order to introduce a regime of harassment, blackmail, threats and pressure against independent journalists and media moguls. As a result, there now remains only a handful of independent Hungarian media outlets and in 2021, Orban became the first EU leader to be placed on the Enemies of Press Freedom list by Reporters without Borders (RSF). Although the government consistently fall back on reasons of 'national security',^{48b} claims that the victims are a threat to national security are preposterous.

^{48a} *The Guardian*, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July

2021

^{48b} *The Guardian*,
<https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests> , 18 July 2021.

Or. en

Amendment 227
Sophia in 't Veld

Motion for a resolution
Paragraph 21 a (new)

Motion for a resolution

Amendment

21 a. *The use of Pegasus in Hungary appears to be part of a calculated and strategic destruction of media freedom and freedom of expression by the government^{1a}. The Fidesz government has utilised this spyware in order to introduce a regime of harassment, blackmail, threats and pressure against independent journalists and media moguls. Today, there remains only a handful of independent Hungarian media outlets and in 2021, Orban became the first EU leader to be placed on the Enemies of Press Freedom list by Reporters without Borders (RSF)^{1b}. Although the government consistently fall back on reasons of ‘national security’^{1c}, claims that the victims are a threat to national security are preposterous.*

^{1a} *The Guardian*,
<https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests> , 18 July 2021.

^{1b} *The Guardian*,
<https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests> , 18 July

2021.

^{1c} *Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.*

Or. en

Amendment 228

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution Paragraph 22

Motion for a resolution

22. ***The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017 shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu^{49 50}. The Hungarian Ministry of the Interior did not confirm this until 8 April 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².***

⁴⁹ *Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.*

⁵⁰ *The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.*

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² *DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November*

Amendment

22. ***On 8 April 2021, the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹.***

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

Amendment 229**Gilles Lebreton, Christine Anderson, Mathilde Androuët****Motion for a resolution****Paragraph 22***Motion for a resolution*

22. The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017 **shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu⁴⁹⁵⁰. The Hungarian Ministry of the Interior did not confirm this until 8 April 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹- Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².**

⁴⁹ *Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.*

⁵⁰ *The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests> , 18 July 2021.*

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Amendment

22. The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017. **This purchase was confirmed on 8 April 2021 by the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa⁵¹. Lajos Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².**

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

Amendment 230

Lukas Mandl

Motion for a resolution

Paragraph 22

Motion for a resolution

22. The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017 *shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu*^{49 50}. The Hungarian Ministry of the Interior did not confirm this until 8 April 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².

⁴⁹ Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.

⁵⁰ The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Amendment

22. The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017. The Hungarian Ministry of the Interior did not confirm this until 8 April 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Or. en

Amendment 231

Anna Júlia Donáth

Motion for a resolution

Paragraph 22

Motion for a resolution

22. The Hungarian Ministry of the Interior bought Pegasus from NSO **Group** in 2017 shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu^{49 50}. The Hungarian Ministry of the Interior did not confirm this until 8 April 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².

⁴⁹ Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.

⁵⁰ The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Amendment

22. The Hungarian Ministry of the Interior bought Pegasus **for EUR 6 million indirectly through Communication Technologies Ltd.** from NSO **Group's company in Luxembourg** in 2017 shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu^{49 50}. The Hungarian Ministry of the Interior did not confirm this until 8 April 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².

⁴⁹ Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.

⁵⁰ The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Or. en

Amendment 232

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Katarina Barley, Łukasz Kohut

**Motion for a resolution
Paragraph 22**

Motion for a resolution

22. The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017 shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu^{49 50}. The Hungarian Ministry of the Interior did not confirm this until **8 April** 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².

⁴⁹ Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.

⁵⁰ The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Amendment

22. The Hungarian Ministry of the Interior bought Pegasus from NSO Group in 2017 shortly after Orbán met with Polish Prime Minister Mateusz Morawiecki and former Israeli Prime Minister Benjamin Netanyahu^{49 50}. The Hungarian Ministry of the Interior did not confirm this until **November** 2021 when the Chair of the Parliamentary Defence and Law Enforcement Committee, Lajos Kósa, acknowledged the purchase of Pegasus by the Fidesz government⁵¹ - Kósa still insisted however that the spyware has never been used against Hungarian citizens⁵².

⁴⁹ Financieele Dagblad, De wereld deze week: het beste uit de internationale pers. 7 January, 2022.

⁵⁰ The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.

⁵¹ DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021.

⁵² DW, Hungary admits to using NSO Group's Pegasus spyware', 4 November 2021

Or. en

Amendment 233

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution
Paragraph 22 a (new)

Motion for a resolution

Amendment

22 a. President of the Hungarian National Authority for Data Protection and Freedom of Information (NAIH), Attila Péterfalvi, has continuously asserted that all use of Pegasus was for national security purposes, which falls within the exclusive competence of national governments.^{52a} The ruling party refuses to confirm or deny that the government targeted certain politically motivated victims.^{52b}

^{52a} Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022

^{52b} Netzpolitik, <https://netzpolitik.org/2022/pegasus-scandal-in-hungary-not-surprising-but-still-shameful/>, 10 February 2022.

Or. en

**Amendment 234
Sophia in 't Veld**

**Motion for a resolution
Paragraph 22 a (new)**

Motion for a resolution

Amendment

22 a. President of the Hungarian National Authority for Data Protection and Freedom of Information (NAIH), Attila Péterfalvi, has continuously asserted that all use of Pegasus was for national security purposes, which falls within the exclusive competence of national governments^{1a}. The ruling party refuses to confirm or deny that the government targeted certain politically motivated victims^{1b}.

^{1a} Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022; Netzpolitik,

<https://netzpolitik.org/2022/pegasus-scandal-in-hungary-not-surprising-but-still-shameful/> , 10 February 2022.

^{1b} AP,

<https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0> , 4 November 2021.

Or. en

Amendment 235

Hannah Neumann, Saskia Bricmont, Diana Riba i Giner, Gwendoline Delbos-Corfield, Jordi Solé, Marcel Kolaja
on behalf of the Verts/ALE Group

Motion for a resolution Paragraph 22 b (new)

Motion for a resolution

Amendment

22 b. In response to calls from the opposition, the Fidesz government held two special committee hearings, including one in the Committee on Defence and Law Enforcement, however they subsequently classified the findings of those hearings until 2050. ^{52d}

^{52d} AP,

<https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0> , 4 November 2021.

Or. en

Amendment 236

Sophia in 't Veld

Motion for a resolution Paragraph 22 b (new)

Motion for a resolution

Amendment

22 b. *In response to calls from the opposition, the Fidesz government held two special committee hearings, including one in the Committee on Defence and Law Enforcement, however they subsequently classified the findings of those hearings until 2050^{1a}.*

^{1a} *AP*,
<https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0> , 4 November 2021.

Or. en

Amendment 237

Dominik Tarczyński, Beata Kempa, Elżbieta Kruk
on behalf of the ECR Group

Motion for a resolution **Paragraph 23**

Motion for a resolution

23. *The legal instruments governing spyware in Hungary are some of the weakest such provisions in Europe^{53 54}. The system exists in blatant violation of European requirements and standards set for the surveillance of citizens by the ECHR and the rulings of the ECtHR⁵⁵ despite the government's insistence that they have acted legally in all instances and are completely compliant with the law^{56 57}. The Act CXXXV of 1995 on National Security Services (hereinafter the Act) is currently governing the use of spyware in Hungary⁵⁸ and it is much more of a tool for control and power for the government than a shield for citizens' rights and privacy. Not only does it omit a requirement for the notification of surveillance subjects, it specifically stipulates that targets must not be informed by the authorising party that they are being spied upon.⁵⁹ The*

Amendment

23. The Act CXXXV of 1995 on National Security Services (hereinafter the Act) is currently governing the use of spyware in Hungary⁵⁸.

requirement to notify victims was unequivocally established in the case of Klass and others v. Germany⁶⁰ in the ECtHR and the Hungarian government have failed to implement this ruling in the same manner as Poland and many other countries within the EU.

⁵³ *The Guardian*,
<https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests> , 18 July 2021.

⁵⁴ *DW*, ‘Pegasus scandal: In Hungary, journalists sue state over spyware’, 29 January 2022.

⁵⁵ *See, inter alia*, *Roman Zakharov v. Russia* [GC], no. 47143/06, ECHR 2015 39; *Klass and others v. Germany*, 6 September 1978, § 50, Series A no. 28. 40; *Prado Bugallo v. Spain*, no. 58496/00, § 30, 18 February 2003; *Liberty and others v. United Kingdom*, no. 58243/00, § 62, 1 July 2008.

⁵⁶ *AP*,
<https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0> , 4 November 2021.

⁵⁷ *Euractiv*, *Hungary employed Pegasus spyware in hundreds of cases, says government agency*, 1 February 2022.

⁵⁸ Act CXXV of 1995 on National Security Services,
http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf .

⁵⁹ *Act CXXV of 1995 on National Security Services*,
http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf at Section 58.

⁶⁰ *Klass and others v. Germany*, 6 September 1978, § 50, Series A no. 28. 40.

⁵⁸ Act CXXV of 1995 on National Security Services,
http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf .

Or. en

Amendment 238

Hannes Heide, Nikos Androulakis, Costas Mavrides, Demetris Papadakis, Ibán García Del Blanco, Juan Fernando López Aguilar, Sándor Rónai, Katarina Barley, Łukasz Kohut

Motion for a resolution

Paragraph 23

Motion for a resolution

23. The legal instruments governing spyware in Hungary are some of the weakest such provisions in Europe^{53 54}. The system exists in blatant violation of European requirements and standards set for the surveillance of citizens by the ECHR and the rulings of the ECtHR⁵⁵ despite the government's insistence that they have acted legally in all instances and are completely compliant with the law^{56 57}. The Act CXXV of 1995 on National Security Services (hereinafter the Act) is currently governing the use of spyware in Hungary⁵⁸ and it is much more of a tool for control and power for the government than a shield for citizens' rights and privacy. Not only does it omit a requirement for the notification of surveillance subjects, it specifically stipulates that targets must not be informed by the authorising party that they are being spied upon.⁵⁹ The requirement to notify victims was unequivocally established in the case of *Klass and others v. Germany*⁶⁰ in the ECtHR and the Hungarian government **have** failed to implement this ruling in the same manner as Poland and many other countries within the EU.

Amendment

23. The legal instruments governing spyware in Hungary are some of the weakest such provisions in Europe^{53 54}. The system exists in blatant violation of European requirements and standards set for the surveillance of citizens by the ECHR and the rulings of the ECtHR⁵⁵ despite the government's insistence that they have acted legally in all instances and are completely compliant with the law^{56 57}. The Act CXXV of 1995 on National Security Services (hereinafter the Act) is currently governing the use of spyware in Hungary⁵⁸ and it is much more of a tool for control and power for the government than a shield for citizens' rights and privacy. Not only does it omit a requirement for the notification of surveillance subjects, it specifically stipulates that targets must not be informed by the authorising party that they are being spied upon.⁵⁹ The requirement to notify victims was unequivocally established in the case of *Klass and others v. Germany*⁶⁰ in the ECtHR and the Hungarian government **has** failed to implement this ruling it in the same manner as Poland and many other countries within the EU. ***The Court stipulated in the case of Szabó and Vissy v. Hungary*^{60a} in the ECtHR the absence of any effective remedial measures in case of abuse. According to the Court in the case of *Hüttl v. Hungary*^{60b} in the ECtHR the absence of an external, independent scrutiny and the limited power conferred to the National Authority for Data Protection and Freedom of Information (NAIH) are not capable of providing**

⁵³ The Guardian, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests> , 18 July 2021.

⁵⁴ DW, ‘Pegasus scandal: In Hungary, journalists sue state over spyware’, 29 January 2022.

⁵⁵ See, inter alia, Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39; Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40; Prado Bugallo v. Spain, no. 58496/00, § 30, 18 February 2003; Liberty and others v. United Kingdom, no. 58243/00, § 62, 1 July 2008.

⁵⁶ AP, <https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0> , 4 November 2021.

⁵⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency’, 1 February 2022.

⁵⁸ Act CXXV of 1995 on National Security Services, http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf .

⁵⁹ Act CXXV of 1995 on National Security Services, http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf at Section 58.

⁶⁰ Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40.

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⁵⁴ DW, ‘Pegasus scandal: In Hungary, journalists sue state over spyware’, 29 January 2022.

⁵⁵ See, inter alia, Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39; Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40; Prado Bugallo v. Spain, no. 58496/00, § 30, 18 February 2003; Liberty and others v. United Kingdom, no. 58243/00, § 62, 1 July 2008; *Szabó and Vissy v. Hungary, no. 37138/14, 12 January 2016*; *Hüttl v. Hungary. no. 58032/16, 29 September 2022*;

⁵⁶ AP, <https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0> , 4 November 2021.

⁵⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency’, 1 February 2022.

⁵⁸ Act CXXV of 1995 on National Security Services, http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf .

⁵⁹ Act CXXV of 1995 on National Security Services, http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf at Section 58.

⁶⁰ Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40.

^{60a} *Szabó and Vissy v. Hungary, no. 37138/14, 12 January 2016*.

^{60b} *Hüttl v. Hungary. no. 58032/16, 29 September 2022*

Amendment 239**Gilles Lebreton, Christine Anderson, Mathilde Androuët****Motion for a resolution****Paragraph 23***Motion for a resolution*

23. The **legal instruments governing spyware in Hungary are some of the weakest such provisions in Europe**⁵³⁵⁴. **The system exists in blatant violation of European requirements and standards set for the surveillance of citizens by the ECHR and the rulings of the ECtHR**⁵⁵ despite the government's insistence that they have acted legally in all instances and are completely compliant with the law⁵⁶⁵⁷. The Act CXXV of 1995 on National Security Services (hereinafter the Act) is currently governing the use of spyware in Hungary⁵⁸ **and it is much more of a tool for control and power for the government than a shield for citizens' rights and privacy. Not only does it omit a requirement for the notification of surveillance subjects, it specifically stipulates that targets must not be informed by the authorising party that they are being spied upon.**⁵⁹ The requirement to notify victims was unequivocally established in the case of *Klass and others v. Germany*⁶⁰ in the ECtHR **and the Hungarian government have failed to implement this ruling in the same manner as Poland and many other countries within the EU.**

⁵³ *The Guardian*, <https://www.theguardian.com/news/2021/jul/18/viktor-orban-using-nso-spyware-in-assault-on-media-data-suggests>, 18 July 2021.

⁵⁴ *DW*, 'Pegasus scandal: In Hungary, journalists sue state over spyware', 29

Amendment

23. The **system appears to exist in violation of European requirements and standards set for the surveillance of citizens by the ECHR and the rulings of the ECtHR**⁵⁵, despite the government's insistence that they have acted legally in all instances and are completely compliant with the law⁵⁶⁵⁷. The Act CXXV of 1995 on National Security Services (hereinafter the Act), **which** is currently governing the use of spyware in Hungary **does not appear to afford sufficient protection for citizens' rights and privacy, especially regarding the requirement to notify the subjects of their surveillance.** The requirement to notify victims was, **however**, unequivocally established **by the judgment** in the case of *Klass and others v. Germany* in the ECtHR.

January 2022.

⁵⁵ See, inter alia, Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39; Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40; Prado Bugallo v. Spain, no. 58496/00, § 30, 18 February 2003; Liberty and others v. United Kingdom, no. 58243/00, § 62, 1 July 2008.

⁵⁶ AP, <https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0>, 4 November 2021.

⁵⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

⁵⁸ *Act CXXV of 1995 on National Security Services*, http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf.

⁵⁹ *Act CXXV of 1995 on National Security Services*, http://jogszabalykereso.mhk.hu/translated/doc/J1995T0125P_20200701_FIN.pdf at Section 58.

⁶⁰ *Klass and others v. Germany*, 6 September 1978, § 50, Series A no. 28. 40.

⁵⁵ See, inter alia, Roman Zakharov v. Russia [GC], no. 47143/06, ECHR 2015 39; Klass and others v. Germany, 6 September 1978, § 50, Series A no. 28. 40; Prado Bugallo v. Spain, no. 58496/00, § 30, 18 February 2003; Liberty and others v. United Kingdom, no. 58243/00, § 62, 1 July 2008.

⁵⁶ AP, <https://apnews.com/article/technology-europe-hungary-malware-spyware-ccacf6da9406d38f29f0472ba44800e0>, 4 November 2021.

⁵⁷ Euractiv, Hungary employed Pegasus spyware in hundreds of cases, says government agency', 1 February 2022.

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Amendment 240 Sophia in 't Veld

Motion for a resolution Paragraph 23 a (new)

Motion for a resolution

Amendment

23 a. Moreover, its vague provisions do not clearly outline the types of crimes or criteria that warrant surveillance. These deficiencies concern some of the most basic provisions regarding spyware required under EU law, along with proper

oversight and scrutiny to prevent abuse and effective avenues for redress, which are also nowhere to be found in the text of the Act.

Or. en