



Didier Reynders
European Commissioner for Justice

Valdis Dombrovskis
European Commissioner for Trade

Brussels, 21 July 2023

Subject: US blacklisting of EU based spyware firms

Dear Commissioner Reynders,
Dear Commissioner Dombrovskis,

In November 2021 the US Department of Commerce Bureau of Industry and Security (BIS) amended the Export Administration Regulations (EAR) by adding four spyware firms to the Entity List, including NSO group, the manufacturer of Pegasus spyware, stating that *“there is reasonable cause to believe, based on specific and articulated facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such entities”*.

On 19 July 2023, an additional four companies were added to the Entity List: Intellexa S.A. in Greece, Intellexa Limited in Ireland, Cytrox Holdings Zrt. in Hungary and Cytrox AD in North Macedonia. These companies are part of the EU based Intellexa Alliance. According to the End User Review Committee composed of representatives of the Departments of Commerce, State, Defense, Energy and the Treasury, these companies are a threat *“for trafficking in cyber exploits used to gain access to information systems, thereby threatening the privacy and security of individuals and organizations worldwide. This activity is contrary to U.S. national security and foreign policy interests under § 744.11 of the EAR”*. All four companies were also covered extensively in the European Parliament Report of the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware (PEGA). Intellexa and Cytrox play a central role in the European scandal of illegal use of and trade in spyware, as described in the PEGA final report. Since the adoption of the EP report, further elements have come to light. In July, media published new details on the connection between the Greek intelligence services and Intellexa¹. On July 20th 2023, the Greek Data Protection Authority issued a statement that so far 92 cell phone numbers had been identified as having been targeted with Predator spyware, further underlining the magnitude of the spying operation.

The European Parliament has expressed grave concern over the activity of EU based spyware firms, in particular Intellexa and connected entities. In the recommendations adopted in June, the Parliament

¹ <https://insidestory.gr/article/intellexa-makes-corrections-greek-intelligence-service-document>



calls for "a joint EU-US spyware strategy, including a joint whitelist and/or blacklist of spyware vendors whose tools have been abused or are at risk of being abused to maliciously target government officials, journalists and civil society, and who operate against the security and foreign policy of the Union, by foreign governments with poor human rights records, (not) authorised to sell to public authorities, common criteria for vendors to be included on either list, arrangements for common EU-US reporting on the industry, common scrutiny, common due diligence obligations for vendors and the criminalisation of the sale of spyware to non-state actors".

The European Commission and Council have taken no action so far, nor have they responded to the findings and recommendations of the European Parliament.

The inertia of the EU compares rather badly to the swift and determined action by the US authorities. It is rather incomprehensible that spyware firms blacklisted by the US should find a welcoming home in the EU. Although the European Union has no specific competences in the area of import policies, the seriousness of the matter entirely justifies EU action.

I therefore kindly ask the Commission to inform the European Parliament what concrete actions it has taken so far with regard to joint action with the US, and specifically how it intends to respond to the blacklisting of Intellexa and Cytrox by the US. Pursuant to Regulation 1049/2001, I hereby would like to request access to all documents pertaining to contacts with the US authorities relating to the matter of amending the Export Administration Regulations (EAR) by adding spyware firms to the Entity List, since July 2021.

I also kindly request that the Commission provides Parliament with a detailed overview of actions taken following the report and recommendations of PEGA.

With kind regards,

Sophie in 't Veld, EP PEGA Inquiry Committee Rapporteur