



No 48

January 10th, 2022

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and other international organizations in Geneva presents its compliments to the Secretariat of the United Nations (Office of the United Nations High Commissioner for Human Rights) and with reference to the joint communication by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders, dated October 22, 2021, has the honour to communicate the response provided by the competent Bulgarian authorities (herewith attached).

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the United Nations (Office of the United Nations High Commissioner for Human Rights) the assurances of its highest consideration.

Annex: according to text (2 pages).

**OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS**

GENEVA



INFORMATION BY THE REPUBLIC OF BULGARIA
REGARDING: Pegasus Spyware developed by NSO Group Technologies

The Republic of Bulgaria presents its compliments to the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression, the Working Group on the issue of human rights and transnational corporations and other business enterprises, the Special Rapporteur on the rights of freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders.

In response to Joint Communication Ref. AL BGR 2/2021, the Republic of Bulgaria would like to convey the following information, provided by the relevant institutions:

Business enterprises and respect for human rights

1. The Republic of Bulgaria provides judicial and non-judicial mechanisms to ensure effective access to remedy for victims of business-related human rights abuse. Both National Human Rights Institutions – the Ombudsman and the Commission for Protection against Discrimination may review such cases, issue statements and recommendations, and impose fines.
2. The national legislation and the judicial system provide the physical persons and the legal entities with all possible legal means to address issues related to business enterprises and the respect of human rights. The legal framework of the Republic of Bulgaria in the field of human rights meets the highest international standards in this domain and the country is a state-party to all relevant international legal acts. The Republic of Bulgaria is also an active member of all major organizations in the field of human rights and is accountable to the respective monitoring and judicial mechanisms.
3. Principle 15 of the UN Guiding Principles on Business and Human Rights envisages that, in order to fulfil their responsibility to respect human rights, business enterprises should have in place “a human rights due diligence process to identify, prevent, mitigate, and account for how they address their impacts on human rights”. Meanwhile, the European Commission is expected to issue a Legislative Proposal on Sustainable Corporate Governance in the upcoming months. The Republic of Bulgaria will engage actively in the negotiations on this proposal, as the future Directive will, among others, contribute towards the introduction of sustainable human rights due diligence throughout the EU.
4. The responsibility of business enterprises to respect human rights in the Republic of Bulgaria are reflected also in the Corporate Social Responsibility Strategy (2019-2023)¹. The Strategy was prepared and adopted in line with the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, ISO 26000 and relevant ILO documents and standards. The Strategy incorporates the government's political commitment to improve the quality of life through transparent, socially responsible business practices.

Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast)

¹ https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiLy8XY1ef0AhUvS_EDHb-vCdwQFnoECAMQAQ&url=https%3A%2F%2Fwww.mlsp.government.bg%2Fuploads%2F1%2F2019-pr-36-strategy-en.doc&usg=AOvVaw060Cce5WVXRFeqPFgisXvz

5. The Regulation (EU) 2021/821 entered into force in Bulgaria on September 9th, 2021. It is directly applicable in all EU Member States. According to Art. 3 of the Regulation, an export authorisation is required for dual-use items and technologies, which are described in Annex I of the Regulation. Art. 5 (1) and (2) stipulate that authorization is required in order to export cyber surveillance devices not listed in Annex I, if the exporter has been informed by the competent authority that the devices in question are or may be intended, in whole or in part, for use related to repression and/or serious violations of human rights and international humanitarian law. The exporter shall notify the competent authority, which shall decide whether the export concerned is subject to authorization.
6. In the Republic of Bulgaria, the conditions and procedure for issuing licences for foreign trade in dual-use items and technologies are described in the Export Control of Defence-Related Products and Dual-Use Items and Technologies Act. The legal provisions prescribe specific sanctions and fines for persons who carry out activities in violation of the Act.
7. The legal framework of export control in the Republic of Bulgaria consists of the Export Control of Defence-Related Products and Dual-Use Items and Technologies Act and the related bylaws. The Inter-Institutional Council for Defence Industry and Security of Supplies, under the Council of Ministers, licences the entities that are authorized to perform international transactions with defence-related products and dual-use items and technologies. The Inter-Institutional Commission for Export Control and Non-Proliferation of Weapons of Mass Destruction, under the Minister of Economy, is the competent body that issues authorisations for the individual international transactions in dual-use items and technologies.
8. All received applications for transactions are considered on an individual basis, taking into account a number of indicators including the nature of the products, end-user, end-use, trade and other restrictions, the specific situation in the region, etc. When issuing transaction authorisations, the Republic of Bulgaria applies the relevant EU law and practice.

Pegasus software and Bulgaria

9. The Republic of Bulgaria has not issued any authorisations for transactions with the Pegasus software.
10. The competent national authorities are acquainted with the publicly available information regarding the Pegasus software and its alleged use to surveil journalists, politicians and human rights defenders. However, no such cases have been registered on the territory of the Republic of Bulgaria. This software has not been acquired or used by any Bulgarian state institution. There are no indications or evidence for possession or use of the abovementioned software by criminal structures in the Republic of Bulgaria.
11. Art. 319e of the Penal Code criminalizes the creation, obtainment for himself/herself or for someone else, importation or otherwise distribution of computer programs, passwords, codes or other similar data for access to an information system or part thereof in order to commit a crime under art. 171 (3), art. 319a, art. 319b, art. 319c or art. 319d. A legal person, which has enriched itself or would enrich itself from the abovementioned crimes (art. 171 (3) of the Penal Code, art. 319a – 319f of the Penal Code), shall be punishable by a financial penalty according to the provisions of art. 83a of the Administrative Violations and Sanctions Act.

Sofia, December 2021