

# assemblea

## Resolution on espionage UNPO General Assembly 2024

Submitted by: Assemblea Nacional Catalana

### **Espionage used to silence civil society**

Civil society “is a prerequisite for a functioning democracy”. As approved in the Principles of Democracy of the Council of Europe’s 2023 Reykjavik Summit, member states are committed to “supporting and maintaining a safe and enabling environment in which civil society, as well as human rights defenders, can operate free from hindrance, insecurity, and violence”. To be able to function properly, civil society needs a safe and enabling civic space, an “environment that enables civil society to play a role in political, economic and social life of our society”, that allows everyone “to contribute to policy-making that affects their life”, as defined by the OHCHR.

There seems to be worldwide agreement on the role of civil society in safeguarding and promoting democracy and fundamental rights, yet civic space is progressively shrinking around the world while the challenges of carrying out advocacy work continue to increase.

These challenges that civil society faces vary across Member States, but one of the issues raised is the tightening of rules on assemblies and associations and the disproportionate use of police powers<sup>ii</sup>. This dangerous trend can be seen around the world, even in theoretically consolidated democracies such as Spain, where it has reached a worrying level, especially regarding Catalan pro-independence civil society.

Governments can use sophisticated surveillance technology such as Pegasus or Candiru in order to face security threats, to protect national security or to safeguard the rights and freedoms of citizens. However, the European Court of Human Rights emphasizes that this is only permitted when in accordance with law, and its use should be necessary and proportionate in serving a legitimate aim<sup>iii</sup>. Nonetheless, there is a lot of evidence showing that Pegasus has been used illegally for domestic and international espionage rather than legitimate public safety concerns<sup>iv</sup>. This is the case of Spain, where it is being used against Catalan pro-independence civil society, although it is a political, non-violent movement that poses no threat to security.

### **The case of Catalonia**

Article 18 of the Spanish Constitution prohibits arbitrary or unlawful interference with privacy, family, home or correspondence<sup>v</sup>. Nevertheless, as noted in the US State Department 2024 briefing, there are reports “that in some cases the government may have failed to respect these prohibitions”<sup>vi</sup>.

For years, the Catalan pro-independence civil society has been the object of repression and judicial persecution in an attempt to stifle and silence the struggle for Catalonia’s self-determination. The Spanish authorities are using different abusive practices –such as espionage and police infiltration– against civil society, undermining the rule of law and abusing the fundamental rights of the Catalan people.

In April 2022, an investigation by the Canadian research centre Citizen Lab revealed that the Spanish authorities had carried out illegal surveillance actions on at least 65 leaders and activists of the Catalan independence movement, as well as their relatives, lawyers and journalists<sup>vii</sup>. This

information was later corroborated by investigations by Amnesty International<sup>viii</sup> and validated by the European Parliament. Among the espionage victims were at least six members of the Catalan National Assembly.

In line with these reports on the political espionage on Catalan people, three UN Special Rapporteurs addressed Spain with their concerns and recognized violations of fundamental rights, in a communique in response to a complaint submitted in April 2022, written jointly by the Catalan National Assembly and the UNPO<sup>ix</sup>.

Spain's illegal espionage on the Catalan pro-independence movement violates the right to privacy and personal data protection guaranteed in Article 8 of the European Convention on Human Rights<sup>x</sup>, as well as the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data<sup>xi</sup>. And to make matters worse, it creates a chilling effect on the members of civil society, creating an environment of self-censorship where individuals are afraid to exercise other fundamental freedoms such as freedom of expression and public participation.

Several international NGOs have shown concern for Spain's abuses of the right to privacy of the Catalan people, such as Amnesty International in its 2024 State of the World's Human Rights Report<sup>xii</sup>.

Despite the monumental scale of events –epitomized by Catalangate, which stands as the world's largest case of political espionage– the investigation into this scandal has stagnated. Spain's response to the affair has been characterized by a glaring absence of transparency and cooperation, with a distinct lack of governmental accountability and of efforts towards victim restitution. Rather than addressing the core issue, the Spanish government has attempted to divert attention by highlighting that Prime Minister Pedro Sánchez and four other ministers had also been targeted by Pegasus, purportedly by the Moroccan government, focusing solely on their predicament. Meanwhile, the fundamental rights of Catalan victims remain unaddressed, with no reparations provided. To this day, these individuals continue to grapple with unanswered questions: Why were they spied on? What information was gathered? And who bears ultimate responsibility? Even more disconcerting is the absence of assurances that such spyware is no longer being utilized against them or others.

The victims' quest for justice has been very expensive and so far fruitless; they continue to be denied access to real and meaningful legal remedy, despite the recommendation put forth by the Pegasus Inquiry Committee of the European Parliament. As Sophie In't Veld, an MEP and member of the Pegasus Committee, denounced, the victims find themselves trapped within the system, with the Spanish authorities conveniently invoking national security as an excuse to withhold crucial information<sup>xiii</sup>.

In addition to employing sophisticated spyware, Spanish authorities have resorted to other intrusive tactics to unlawfully gather information on the Catalan pro-independence movement. Reports have surfaced regarding phone tapping and police infiltration. In a recent incident, an undercover officer assumed a false identity, spending three years cultivating an intimate and sexual relationship with a Catalan activist to extract information.

These covert and illicit infiltration methods were authorized by the Spanish government, as confirmed by the Ministry of Interior who asserted that the information gathered fell under the Official Secrets Law. Such espionage tactics are typically permissible only under judicial warrant and for cases involving terrorism, organized crime, or drug trafficking. Despite the absence of these criteria, no investigations have been opened.

## **Proposals**

ALARMED by the shrinking civic space around the world and the growing chilling effect that is having on civil society,

DEEPLY CONCERNED about the violation of the right to privacy of individuals within peaceful and democratic civil society,

ACKNOWLEDGING the lack of accountability for the violations perpetrated by the Spanish authorities against the Catalan people,

The Catalan National Assembly

URGES the UNPO to exert pressure on international organisations to establish a joint definition of national security, with the aim of preventing governments from invoking it as a pretext to curtail transparency and evade accountability.

APPEALS to the international community, unrepresented peoples and especially human rights organizations to conduct investigations and monitoring of states' intrusive practices that violate the right to privacy of minorities and stateless nations.

CALLS on the international community to condemn the persecution and criminalization of Catalan pro-independence civil society by Spanish authorities.

STRONGLY CONDEMNS Spain for the use of illegitimate tools that violate the right to privacy, in an attempt to silence and stifle dissidence, and urges its judiciary to conduct a full, fair, and effective investigation.

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<sup>i</sup> <https://rm.coe.int/4th-summit-of-heads-of-state-and-government-of-the-council-of-europe/1680ab40c1>

<sup>ii</sup> <https://fra.europa.eu/en/publication/2023/civic-space-2023-update>

<sup>iii</sup> [https://www.echr.coe.int/documents/d/echr/fs\\_mass\\_surveillance\\_eng](https://www.echr.coe.int/documents/d/echr/fs_mass_surveillance_eng)

<sup>iv</sup> [Highly intrusive spyware threatens the essence of human rights - Commissioner for Human Rights \(coe.int\)](#)

<sup>v</sup> <https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229>

<sup>vi</sup> [https://www.state.gov/wp-content/uploads/2024/02/528267\\_SPAIN-2023-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2024/02/528267_SPAIN-2023-HUMAN-RIGHTS-REPORT.pdf)

<sup>vii</sup> <https://citizenlab.ca/2022/04/catalangate-extensive-mercenary-spyware-operation-against-catalans-using-pegasus-candiru/>

<sup>viii</sup> <https://www.amnesty.org/en/latest/news/2022/04/spain-pegasus-spyware-catalans-targeted/>

<sup>ix</sup> <https://int.assemblea.cat/wp-content/uploads/2023/01/UN-Catalangate-resolution.pdf>

<sup>x</sup> [https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG)

<sup>xi</sup> <https://rm.coe.int/1680078b37>

<sup>xii</sup> <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>

<sup>xiii</sup> <https://int.assemblea.cat/news/the-european-pegasus-committee-criticises-there-were-no-court-orders-for-most-of-the-catalan-espionage-victims-and-that-national-security-has-been-used-to-avoid-disclosing-information/>