

[This is an informal translation. See original letter in Spanish [here](#).]

Mexico City, January 16, 2023

Members of the Steering Committee Open Government Partnership

As you know, Mexico is one of the founding countries of the Open Government Partnership (OGP). Since then, civil society organizations (CSO) that make up this platform have actively participated in the co-creation and implementation of four action plans, but, above all, we have promoted strategies to strengthen the platform and monitor compliance with the principles of open government.

In this sense, innovative governance mechanisms and participatory methodologies that have been promoted have characterized the action plans of Mexico and have been recognized by the open government community of practice. At the same time, the Nucleus of Civil Society Organizations (NOSC) has acted as a collective space to deal with the complex contexts that the exercise implemented in Mexico has faced, especially those where the principles and conditions of open government are compromised.

In 2017, the NOSC activated the Response Policy mechanism for cases of illegal digital espionage revealed by the *#GobiernoEspía* [Spy Government] investigation. At that time, and in the absence of a response from the authorities that made up the Multi-Stakeholder Forum, it was decided to suspend the group's participation in the third action plan. Subsequently, in 2019, the dialogue with the new Federal Public Administration was reactivated and the co-creation of the fourth action plan was launched, based on a series of conditions to resume the exercise, among which was the establishment of a roadmap to address the problem of illegal state surveillance.

This led to the publication of the fourth action plan, which had an ambitious co-creation process that brought together more than 400 people from the social, government, and academic sectors, resulting in 13 commitments. Among these, the commitment to create "[Democratic controls on interventions of private communications](#)" to comply with the established conditions and finalize the Response Policy process.

The issue of espionage against the civilian population is a priority issue for the NOSC due to the aforementioned background, but, above all, due to the impact that this activity has on the civic space and democratic life of the country. Unfortunately, we are writing this communication to make you aware, once again, of the recent events in terms of illegal espionage that we are facing.

Despite the fact that the current administration expressed its commitment not to carry out espionage actions against the civilian population, as has been declared by the President of the Republic both in his campaign and in the development of his duties, in October, the investigation *#EjércitoEspía*¹ [Spy Army] revealed three new cases of espionage against journalists and human rights defenders.

¹ <https://ejercitoespia.r3d.mx/>

The investigation was carried out by the organizations R3D: Red en Defensa de los Derechos Digitales, ARTICLE 19 México y Centroamérica, and SocialTIC², with support in forensic analysis by the Citizen Lab of the University of Toronto and with the journalistic collaboration of Animal Político, Aristegui Noticias and Proceso, once again, on the indiscriminate and arbitrary use of highly intrusive technologies in Mexico.

The forensic analysis confirmed the infection of the Pegasus malware on three mobile devices between 2019 and 2021 that belonged to human rights defender Raymundo Ramos, journalist Ricardo Raphael and a journalist from Animal Político who requested anonymity for personal security reasons. The dates of the attacks coincide with the tasks of investigation and coverage of cases of human rights violations perpetrated by the armed forces of the country.

Additionally, based on the disclosure of information made by the Guacamaya group, the existence of two contracts dated 2019 was identified, which show that the Secretary of National Defense (SEDENA) paid 60 million pesos to Comercializadora Antsua SA de CV, the only company authorized to sell the tools developed by NSO Group³, such as the Pegasus software.

During a press conference on October 4, this information was presented to President Andrés Manuel López Obrador. His response was the denial of the facts and the delegitimization of the victims, without presenting any evidence that would contradict the results of the investigation. For its part, SEDENA issued a statement that does not contradict what was published in the investigation nor does it present evidence to rule out the facts⁴.

Illegal digital surveillance practices undoubtedly represent a flagrant violation of the principles of open government and the reduction of civic space, cooperation, and dialogue with civil society organizations that we have sought to build since the Partnership was founded in 2011. This is added to the trend of closing civic space, as well as the accusations and attacks made by different authorities against the work of civil society. In addition, the re-victimization generated from the presidential statements results in an attack against freedom of expression and the independence of the media.

Faced with this scenario, the organizations that make up the NOSC have expressed our concern and rejection of the events that occurred to the institutions that make up the OGP Multi-Stakeholder Forum in Mexico. It is a clear and forceful representation of the existence of illegal conduct perpetrated by various administrations and which, above all, seriously violate the safe civic space and the trust that we have sought to build between peers with the government.

The organizations that make up the NOSC consider that, as long as there is no recognition of the assertions presented by the organizations regarding the Spy Army investigation and the

² These organizations are part of the Working Group of the commitment "*Democratic controls to the intervention of private communications*", of the Fourth National Action Plan of Mexico.

³ <https://www.animalpolitico.com/2022/10/sedena-pago-mdp-empresa-pegasus/>

⁴ SEDENA's statement lacks evidence to rule out the following facts: (1) The existence of a contract between SEDENA and Comercializadora Antsua SA de CV; (2) The concealment of the existence of the contract on three occasions, through a request for access to information, a request from the Superior Audit of the Federation and another from the Attorney General of the Republic (FGR); and (3) the forensic analysis carried out by the Citizen Lab where the infection of three devices is verified. The statement can be consulted at: <https://www.gob.mx/sedena/prensa/comunicado-de-prensa-161>

public acts of re-victimization of spied persons do not cease, there will be no minimum conditions of trust to generate an open government environment in which to start working on a fifth action plan with the Federal Executive Branch.

After 11 years of OGP's foundation, it is essential that the members that make up the Steering Committee of this platform take forceful actions against member countries where there are illegal actions that directly threaten one of the principles of this initiative, which seeks the strengthening of democracies.

From the NOSC we recognize the value and importance of the Partnership in the federal context of Mexico, by positioning itself as one of the few spaces that promotes direct and horizontal collaboration between civil society and government agencies to solve public problems. However, we have identified that during Mexico's four Action plans there is a clear trend of limitations that this platform presents to address problems that are a priority for people, such as public safety, freedom of expression, or democratic controls over the intervention of private communications.

Due to all of the reasons mentioned above, we formally request to start the Rapid Response Protocol, considering that the initial conditions to restart the dialogue in the fourth action plan have been violated, as well as the values and principles that govern the Partnership.

Likewise, we request your appreciable intervention to promote the following actions: a) increase international attention to this issue; b) explore high-level dialogue channels, nationally and internationally, and c) call on the government of Mexico to safeguard the values of OGP.

Sincerely

**NUCLEUS OF CIVIL SOCIETY ORGANIZATIONS
OF THE OPEN GOVERNMENT PARTNERSHIP IN MEXICO**

Artículo 19 Oficina para México y Centroamérica

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EQUIS Justicia para las Mujeres

Fundar, Centro de Análisis e Investigación

GESOC, Agencia para el Desarrollo A.C.

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