

05.05.2023

Athens, Greece

Attn.
Mr. Jeroen Lenaers
Chair

Committee of Inquiry to Investigate the Use of Pegasus and Equivalent Surveillance Spyware
("PEGA Committee")

European Parliament

Via email: jeroen.lenaers@europarl.europa.eu

Dear Sir,

**Notice to the Esteemed Committee on behalf of
the Company, Intellexa SA.**

1. We, **the Company "Intellexa SA"**, with GRC no. 154460701000 (hereinafter: "**Intellexa SA**", or the "**Company**") respectfully submit this letter to the esteemed Committee. This letter is issued subsequent to the Letter of Notice, which was sent to the Committee on 01.2.2023.
2. The purpose of this letter is to present the position of Intellexa SA regarding the "Draft Report" that was published by the Rapporteur of the Committee, Ms. Sophie in 't Veld on 8.11.2022 (hereinafter: the "**Draft Report**") and other documents that have been published in the name of the PEGA Committee over the past several months.¹
3. As these documents include countless references to Intellexa SA; as they include factual allegations (presented as supposed "findings") which are mostly unsubstantiated; and as the matters at issue are currently being investigated or otherwise examined by several legal authorities of the Hellenic Republic, Intellexa SA expects and trusts that the PEGA Committee will act in accordance with its legal and ethical obligations, to ensure that its reports and recommendations will not violate the protected rights of the Company.
4. We begin by conveying, on behalf of the Company, a respect and understanding towards the important endeavor of the PEGA Committee. Intellexa SA unequivocally supports the cause of

¹ The Rapporteur of the Committee subsequently published an edited and official version of the Draft Report, on 28.11.2023. Additionally, over 1,200 proposed Amendments to the Draft Report have been published since. This letter, on behalf of Intellexa SA, relates to all and any of the documents that have been published by the PEGA Committee or on its behalf, to date, including: the "**Briefing for the PEGA mission to Cyprus and Greece**" (1-4 November 2022) – a Study that was requested by the PEGA Committee, p. 27 (hereinafter: the "**Study**"). Available at:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2022/738330/IPOL_STU\(2022\)738330_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/738330/IPOL_STU(2022)738330_EN.pdf);

PEGA's "**Draft Recommendation for the Council and the Commission**", published by the Rapporteur on January 4th, 2023. Available at: https://www.europarl.europa.eu/doceo/document/PEGA-RD-740554_EN.pdf.

For the sake of simplicity, we will direct the position of Intellexa SA, generally, towards the "**Draft Report**".

seeking to establish a necessary balance between the use of modern technology, by EU Member States, as an irreplaceable tool to protect the most vital security concerns, and the commitment to fundamental rights under the European Charter and the values of human dignity, freedom, democracy and equality.

5. Intellexa SA recognizes that it is essential to evaluate and to improve the existing legal framework in the EU and to implement standards for regulation of the use of surveillance technologies. Intellexa SA is committed to the well-being of the universe and will gladly accept the implementation of the required legal framework that would ensure a safer use of surveillance technologies.
6. We emphasize that Intellexa SA is a law-abiding Company that was incorporated in Greece and that operated subject to the Laws of the Hellenic Republic and to the sovereign supervision of the Hellenic Legal Authorities and under EU regulation.
7. Intellexa SA has always acted in transparency and subject to the relevant EU and domestic legal framework pertaining to the authorization and regulation of any aspects of its operation.
8. Over the past several months, the competent Legal Authorities in Greece have initiated several investigations, inquiries and audits concerning the matters alluded to in the Draft Report. To the best of our knowledge (based on official notices to the company and on official statements of the Hellenic Authorities), these include an inquiry that was conducted by the National Transparency Authority (“NTA”); a special Inquiry Committee that was appointed by the Greek Parliament in August 2022; an audit that is being conducted by the Hellenic Data Protection Authority (“HDPA”); an investigation that is being conducted by the Hellenic Authority for Communication Security and Privacy (“ADAE”); and pending investigations by the Prosecutor of the Supreme Court of Greece and by the Prosecutor’s Office in Athens. We emphasize that to the best of our knowledge and according to public statements, some of these investigations are ongoing.
9. Intellexa SA respects the authority and competence of the Hellenic Authorities under relevant legislation. The Company has cooperated and will continue to cooperate with all and any of these inquiries, audits and investigations.
10. Due to the fact that investigations regarding allegations towards the Company and/or its operation are ongoing in Greece, at the advice of its legal counsel, Intellexa SA and its representatives are not able to respond to the contentions that are included in the Draft Report, at this time. Intellexa SA will continue to provide any required information to the Legal Authorities of the Hellenic Authorities.
11. However, since the esteemed Committee is still in the process of evaluating its findings and recommendations, it is important, at this stage, to bring to the attention of the Committee’s members that the Draft Report, by its nature and its contents, has apparently violated the rights

of Intellexa SA. Intellexa SA reserves its rights and its contentions regarding the flawed process and methods apparent from the Draft Report and with regard to its contents.

12. Intellexa SA cannot accept the legitimacy of the process and methods that are apparent from the Draft Report and Recommendations that have been published thus far, by the rapporteur of the Committee. Its contentions go to the heart of the validity any recommendations or supposed conclusions. The official and unofficial reports in the name of the Committee, thus far, have been based on countless unsubstantiated reports that were not properly checked and verified, independently and in an objective manner.
13. **Attached to this letter is a legal opinion by two esteemed experts in Jurisprudence, Public and Administrative Law - Professor Spyridon Flogaitis² and Professor Glykeria P. Sioutis³ and the Attorney at Law, Mr. Andreas Mitsainas⁴.** The legal opinion addresses the Draft Report of the esteemed Committee, in relation to the Constitutional Rights of Intellexa SA and to the standards of, inter alia, good administration justice and fairness, due diligence, caution and objectivity to which the Committee is obligated. We ask the members of the Committee to consider the significant legal aspects upon which the legal opinion elaborates. We also note that several members or substitute members of the Committee have independently expressed reservations related to these very issues. We trust that the esteemed Committee will respect the rights of the Company and of other private individuals, as they are explained in the legal opinion, and that the Draft Report will be amended accordingly, and in fairness.

² Professor of Public and Administrative Law at the Law Faculty of the National and Kapodistrian University of Athens; Founding and Managing Partner at the Law Firm "Flogaitis – Sioutis and Partners Law Firm"; Former President of the United Nations Administrative Tribunal, former Acting Minister of Interior of Greece (in 2007 and in 2009), former Alternate Foreign Minister for European Affairs (2015) and former Judge at the Special Supreme Court of Greece. Professor Flogaitis has been a member of the Committee for the Codification of the Hellenic Environmental Law and of the Committee for the Codification of the Hellenic Law of Public Works. He is also a member of the Appeals Board of EUMETSAT and of the Appeals Board of the European Centre for Medium-Range Weather Forecasts. Has been President of the Committee for the Competences of Local Government and of the Committee for the codification of the administrative procedure. Professor Flogaitis has authored several books and publications in the field of Public Law.

³ Professor of Public, Administrative and Environmental Law at the Law Faculty of the National and Kapodistrian University of Athens; Founding and Managing Partner at the Law Firm "Flogaitis – Sioutis and Partners Law Firm". Professor Sioutis has been a member of several governmental committees (Central Legislative Committee, Committee for the codification of the administrative procedure, Committee for the organization of the Ministry of Foreign Affairs etc.) She served for two years as member of the Special Supreme Court, four years as member of the Board of the Regulatory Authority for Energy (RAE), two years as member of the Board of the National Center of Environment and Sustainable Development. Member of the Board of the European Public Law Organization; National Representative at the Conseil Européen du Droit de l'Environnement (CEDE) and Vice-President of the Hellenic Environmental Law Society. From October 2009 until September 2010 Professor Sioutis was the legal advisor of the Prime Minister of Greece.

⁴ Attorney at Law before the Supreme Civil Court and the Greek Council of State, member of the Athens Bar Association and Sofia Bar Association. Managing partner of "Andreas Mitsainas Law Firm". Mr. Mitsainas holds an LLM in Business Law and he has been the legal advisor of several companies and industries in Greece and abroad. He has extensive litigation experience in financial crime cases. He is also a member of the Disciplinary Council of Athens Bar Association and he has been a substitute member of the Special Court of Malpractice.

14. We also note that during a plenary session of the European Parliament that took place on 15.2.2023 and in several amendments that were proposed by members of substitute members of this esteemed committee, similar reservations were brought forth, on record, in relation to the Draft Report. Several MEPs and members of the committee have objected to the publication of unsubstantiated findings and have justifiably emphasized that the matters at issue must be investigated properly, by the Hellenic Authorities, prior to the publication of supposed conclusions.

15. For example, on 15.2.2023 the European Parliament conducted a plenary session on the topic of "the erosion of the rule of law in Greece: the wiretapping scandal and media freedom". Following are several important statements by MEPs from the same plenary session:

MEP Ms. Elissavet Vozemberg-Vrionidi (PEGA Substitute): **"The issue of wiretapping is now being handled by the Greek courts. It is an internal issue. The Greek government adopted a position of not allowing the selling of spyware. The information published many times lacks actual evidence."**

MEP Mr. Paulo Rangel emphasized that it is wrong to "cherry-pick for some political groups" and that the "Greek government cooperated when wiretapping concerns were raised."

The esteemed Chair of the PEGA Committee, Mr. Jeroen Lenaers stated: **"The dedicated PEGA Committee is investigating and doing his job on this matter. The prior speakers did not bring any new input. The focus should be on the PEGA Committee. Greek authorities provided useful information, and no evidence of authoritarian regimes were found, nor of corruption. Unlike other countries, Greece cooperated with the PEGA Committee. Need to investigate before conclusions are drawn."**

MEP MS. Anna-Michelle Asimakopoulou conveyed a substantial concern that the PEGA Report is unsubstantiated and influenced by political bias: **"Why is Greek wiretapping discussed again, considering all the measures taken until now. Greece is systematically targeted. Why PEGA Report relies on evidence with no basis. The left wishes to influence the outcome of the coming elections and that is why they are coming now to the Parliament."**

MEP Mr. Vangelis Meimarakis expressed a similar concern regarding the fairness of the current proceedings: **"This debate is unfair to Greece. Disagreements that we have in Greece have been taken here, this debate shouldn't be taking place now."**

16. In addition, some of the members and substitutes of the PEGA Committee have justifiably demanded to include significant amendments to the Draft Report, specifically in relation to the "findings" related to Greece. They have also demanded to strike out portions of the Draft Report. These proposed amendments convey the sentiment and understanding that the contents of the Draft Report are unsubstantiated, premature and that they cannot be justified.

17. Following are several important examples:

“Amendment 339. Unless otherwise indicated, value judgements made in this chapter are deduced from publicly available information provided by a group of media friendly to the opposition party of Syriza in Greece.”

“Amendment 340. The chapter on Greece contains a mix of facts and unproven or unfounded allegations. In this framework, facts must be distinguished from fiction.”

“Amendment 381. As underlined during the official press conference after the visit of PEGA Committee in Cyprus and Greece, no outright evidence of corruption or any kind of authoritarian practices was found but more effort needs to be taken to ensure transparency. In this framework, any allegations of abuse of surveillance have to be thoroughly investigated and necessary safeguards should be installed”.

18. Considering all of the above, Intellexa SA trusts that the esteemed Committee will act, from here on, within the boundaries of its mandate and that it will take caution as to not unduly influence pending investigations, to respect the Company's (and other private individuals') rights to the presumption of innocence and due process, as well as the sovereignty of the Hellenic Republic.
19. The above, including the attached legal opinion, does not constitute a waiver of any of our rights or arguments in this matter or any other matter, including their right to approach any legal instances.

Intellexa SA