

R3D INTERVENTION
UPR 45th PRE SESSIONS - MEXICO



THE RIGHT TO PRIVACY
IN MEXICO



CONTEXT

Surveillance powers in the Mexican legal framework: (a) interception of private communications; (b) massive and indiscriminate retention of communications data; and, (c) real-time geolocation.

The law does **NOT** offer:

1. Sufficient clarity and safeguards to prevent abuses; nor
2. Mechanisms capable of detecting and preventing the acquisition of surveillance equipment and systems that do not comply with human rights standards or facilitate the circumvention of accountability mechanisms.



PROBLEM

Several abuses have been found in the acquisition and use of such surveillance technologies. E.g.: Pegasus has been used to stifle peaceful political dissent and target journalists, human right defenders and social activists.

- More than 25 surveillance cases against journalists and human rights defenders in Mexico were documented by civil society organisations.
- Mexican authorities, such as the Mexican Army, the intelligence agency and the (then) Attorney General's Office (PGR) had purchased this software.



EJÉRCITO ESPÍA

- The investigation “*Ejército Espía*”, carried out by media and civil society organisations, revealed new cases of *Pegasus* surveillance attributable with a high degree of certainty to the Mexican Army.¹
- The Army does not have legal powers to intercept private communications. Nonetheless, as demonstrated at least since 2011, it has illegally done so to interfere with investigations carried out officially and by human rights defenders and journalists related to its human rights abuses.

1. R3D: Red en Defensa de los Derechos Digitales, Article 19, Social Tic, *et. al.*, *Ejército Espía*, available at: <https://ejercitoespia.r3d.mx/>



IMPUNITY

- In 2017, 2022 and 2023, surveilled victims filed criminal complaints with the Special Prosecutor's Office for Crimes against Freedom of Expression (FEADLE) for, among others, the crimes of illegal interception of private communications and illegal access to computer systems.
- Despite multiple calls by national and international actors, more than six years after the announcement of the launch of the first investigation, and a year after the launch of the second, no significant progress has been made.



RECOMMENDATIONS

1. Adopt a **moratorium** on the sale, acquisition, transfer and use of surveillance technology.
2. Establish an **international group of experts to autonomously and independently investigate and punish** those responsible for the unlawful surveillance of journalists and human rights defenders with Pegasus malware.
3. **Adopt legal and administrative reforms of surveillance powers.**



QUESTIONS FOR MEXICO

- What progress has been made in the criminal investigations that started in 2017, 2022 and 2023 for the crime of illegal interception of private communications against human right defenders and journalists?
- What has the government done regarding the UN Special Procedures' recommendations, in particular those of the Freedom of Opinion and Expression Rapporteurs related to the need to reform the surveillance legal framework?