

**Letter from the Core Group of Civil Society Organizations to the Tripartite Technical Secretariat
facing revelations of governmental surveillance on health rights advocates in Mexico**

Mexico City, February 16th, 2017

Members of the Tripartite Technical Secretariat,

This past July 11th an investigation from the Citizen Lab of Munk School of Global Affairs of the University of Toronto and The New York Times revealed evidence that Dr. Simón Baquera, researcher in Mexico's National Institute of Public Health; Alejandro Calvillo, Director of El Poder del Consumidor, and Luis Manuel Encarnación, Coordinator of the ContrPESO Coalition have been object of attacks during 2016 with the intention to infect their mobile phones with surveillance malware that is exclusively sold to governments by the company NSO Group.

According to the evidence presented, the attacks are related to the activity of defending the right to health that has been carried out by the three people mentioned above, particularly through the promotion of tax on sugary drinks and criticism to the deficient norms regarding food labelling in Mexico. In the context of the Open Government Partnership, state surveillance has been identified without the appropriate transparency and controls as a practice inconsistent with governmental openness since it directly limits a free civic and participatory space. Additionally, two of the institutions who have been victim to this surveillance actively participated in the work table of the commitment in favor of upright policies regarding prevention and fight against obesity as part of the Third National Action Plan which is under construction.

The organizations that form part of the Core Group of Civil Society Organizations of the Open Government Partnership in Mexico are highly concerned by the disclosures of this case of surveillance to health rights advocates in Mexico. As part of the Tripartite Technical Secretariat we share the following remarks:

1. We reject any disproportionate and illegal state surveillance actions in Mexico.
2. We express our concern regarding government usage of highly intrusive computer programs like the "Pegasus" malware commercialized by NSO Group, particularly against academics and civil society organizations.
3. We call on the Mexican government to cease surveillance against any individual that is not subject to an investigation or criminal procedure and where this measure has been authorized by the judicial power.
4. We urge the authorities to urgently undertake an exhaustive, serious, and impartial investigation that allows for identification and punishment of those responsible of illegal surveillance in Mexico.
5. We appeal to the proactivity of the Tripartite Technical Secretariat to pursue, through mechanisms proper to the Open Government Partnership, the implementation of the

actions needed to develop regulation and practices that establish usage control, transparency, and accountability regarding surveillance actions in Mexico.

Sincerely,

Article19

CIDAC

Contraloría Ciudadana

Cultura Ecológica

Fundar

GESOC

IMCO

Observatorio Nacional Ciudadano

SocialTIC

Transparencia Mexicana

References: - CitizenLab - Bitter Sweet: Supporters of Mexico's Soda Tax Targeted With NSO Exploit Links - <https://citizenlab.org/2017/02/bittersweet-nso-mexico-spyware/> - New York Times - Spyware's Odd Targets: Backers of Mexico's Soda Tax - https://www.nytimes.com/2017/02/11/technology/hack-mexico-soda-tax-advocates.html?_r=0

CC:

Arely Gómez – Secretary of the Public Function of Mexico

Alejandra Lagunes – Coordinator of the National Digital Strategy of Mexico

Ximena Puente de la Mora – President Commissioner of Mexico's National Institute for Access to Information and Data Protection

Areli Cano Guadiana – Commissioner of Mexico's National Institute for Access to Information and Data Protection

Francisco Javier Acuña Llamas – Commissioner of Mexico's National Institute for Access to Information and Data Protection

Joel Salas Suárez – Commissioner of Mexico's National Institute for Access to Information and Data Protection

María Patricia Kurczyn Villalobos – Commissioner of Mexico's National Institute for Access to Information and Data Protection

Oscar Guerra Ford – Commissioner of Mexico's National Institute for Access to Information and Data Protection

Rosendoevgueni Monterrey Chepov - Commissioner of Mexico's National Insitute for Access to Information and Data Protection.