

EL SALVADOR

CIVICUS MONITOR WATCHLIST

OVERVIEW OF RECENT RESTRICTIONS
TO CIVIC FREEDOMS





INTRODUCTION

In early January 2022, the discovery of Pegasus spyware on devices belonging to 35 journalists and HRDs in El Salvador [evidenced](#) an ongoing offensive against civic space. It was the latest, but not the only confirmation, that these actors are viewed as adversaries by the country's powerholders. Since 2019, Salvadoran President Nayib Bukele and his allies have often [discredited](#) civil society work and [smeared](#) journalists who criticise Bukele's administration. In the second half of 2021, attacks on fundamental freedoms intensified.

Efforts to limit civic space in El Salvador take place in a wider context of democratic backsliding. Soon after Bukele's party won a majority in the National Assembly in February 2021, they began undermining judicial independence by [replacing](#) judges in the Supreme Court's Constitutional Chamber and [forcing](#) the ouster of a third of the country's judges with compulsory retirement. In September 2021, magistrates in the new Constitutional Chamber [published](#) a resolution enabling consecutive presidential re-election, something previously banned by the constitution. Throughout this period, Bukele [stigmatised](#) those protesting against these and other authoritarian measures.

SURVEILLANCE

On 23rd November 2021, 23 journalists from various Salvadoran media outlets [reported](#) receiving alerts about State-sponsored attackers attempting to gain access to their mobile phones. Similar warnings were sent by mobile phone manufacturers to the National Press Association (APES) and two civil society leaders in a pro-democracy organisation.

On 12th January 2022, an investigation by civil society groups [found](#) NSO Group's Pegasus technology on mobile phones belonging to at least 30 journalists in the country, 23 of whom worked with news outlet El Faro. The spyware was also discovered in devices belonging to journalists from five other media outlets and four members of civil society organisations. According to the [investigation](#), the devices were infected between July 2020 and November 2021. While the researchers could not conclusively link the hacks to El Salvador's government, the report stated that "the strong country-specific focus of the infections suggests that this is very likely." The NSO Group has repeatedly claimed it only sells Pegasus technology to governments.

While authorities [denied](#) responsibility for the hacking, in February 2022 pro-government legislators swiftly approved reforms to the Criminal Code that use ambiguous language to legalise and enable law enforcement's use of digital surveillance tools. The changes [approved](#) on 1st February 2022 authorise the use of digital evidence obtained via undercover investigations in judicial proceedings. Law enforcement carrying out such investigations would not require a court order, only permission from prosecutors. Civil society organisations [criticised](#) the lack of control and accountability mechanisms in this reform, saying it does not establish limits to agents' actions or the types of surveillance tools they could use – posing great risks to privacy and freedom of expression rights.

ABOUT THE CIVICUS MONITOR

The [CIVICUS Monitor](#), an online platform that tracks threats to civil society in countries across the globe, rates civic space – the space for civil society – in El Salvador as "**Obstructed**".

The data provides the basis for civic space ratings, which are based on up-to-date information and indicators on the state of freedom of association, peaceful assembly and expression. Countries can be rated as:

CLOSED

REPRESSED

OBSTRUCTED

NARROWED

OPEN



FUNDING RESTRICTIONS

On 9th November 2021, President Nayib Bukele's government [presented](#) the National Assembly with a draft [Foreign Agents Law](#) that could be used to stifle civil society and independent media. The proposed legislation would limit legitimate activities of organisations and individuals who receive funding or support from abroad. It would require them to register as a 'foreign agent' with the Interior Ministry, impose a 40% tax on some groups' international funding and allow the cancellation of their legal status. Using broad language, the bill banned organisations from carrying out activities "for political or other purposes, with the intent of altering the public order or jeopardising national security or the social or political stability of the country." Later modifications to the bill included prison sentences for 'foreign agents' who "alter the public order."

Similar legislation and language has been used in countries such as Nicaragua to persecute protesters, rights defenders, journalists and critics. Introduced in the name of increasing accountability, these laws were later used to reduce civic space. Following outcry over the bill, lawmakers decided to postpone the discussion of the proposal. On 23rd November 2021, the president of the Legislative Assembly, Ernesto Castro, [told](#) news media that the proposed law would not yet be approved because further analysis was needed. However, Castro reaffirmed that a law on the matter would eventually be approved.

OTHER RESTRICTIONS AND VIOLATIONS

Lawmakers allied with the government [introduced](#) broad reforms to the Law on Access to Public Information in July 2021. The proposed changes would impose serious setbacks for public transparency and accountability by increasing timelines for responding to information requests, granting confidentiality to public officials' asset declarations and enabling the restriction of informal information – which reportedly may include lists of advisors and their salaries as well as information on officials' travels, among others. The reform package was [sent back](#) to a parliamentary commission for review in February 2022, but is still being considered by legislators. On 7th February 2022, the Presidency [removed](#) the head of the Access to Information Institute, saying that she had not been impartial. She had publicly opposed the legal reforms.

In recent months there have also been concerning incidents such as a [police raid](#) on the offices of seven civil society organisations and [smear campaigns](#) against activists protesting the government.



RECOMMENDATIONS

To El Salvador's Government:

- Archive the proposed “Foreign Agents Law” and refrain from imposing undue restrictions on civil society funding and operations.
- Investigate the arbitrary use of communications surveillance on journalists and civil society leaders, and sanction those responsible.
- Harmonise the legal framework which regulates communications surveillance to ensure that the law is accessible and clear, and meets international human law and standards and establish an independent and effective oversight mechanism with a mandate to monitor all stages of the interception of communications.
- Ensure that any reform to the Access to Information Law is discussed with civil society through meaningful engagement, and that it promotes further transparency and public accountability.
- Promote an enabling environment for civil society and the press, and ensure that they are able to carry out their work without fear and harassment.

To the international community:

- Denounce the unfolding human rights violations facilitated by the use of the NSO Group's Pegasus spyware, and offer robust support for impartial and transparent inquiries into the abuse.
- Continue closely monitoring the situation in El Salvador, particularly in regards to legal and extra-judicial efforts to close the space for journalists and civil society.
- Urge El Salvador's authorities to ensure that legislative proposals comply with human rights norms and standards and condemn the proposed restrictions on international funding for civil society and press organisations.