



Tel Aviv-Jaffa District Court sitting as the Court for Administrative Matters

Before the Hon. Judge Rachel Barkai

July 12th, 2020

Administrative Appeal 28312-05-19 Malekar et al. v. Defence Export Head, Racheli Chen et al.

The Petitioners

1. Molly Malekar and 29 others
Represented by Attorney Eitay Mack

- Versus -

The Respondents

1. Head of Defence Export Controls Agency, Ms Racheli Chen
2. Minister of Defence
3. Ministry of Defence
4. Ministry of Foreign Affairs
Represented by Attorney Sarah Bello – Tel Aviv District Attorney – Civil
5. NSO Group Technologies Ltd., private company 514395409
Represented by Attorney Ran Sprinzak

Judgment

In this appeal, the Petitioners petitioned for a remedy according to which the Court should order Respondent 1 to enact its authority under the Defence Export Control Law 5777-2007 (hereinafter: "**the Control Law**"), and order the revocation of the Defence Export Licence granted by the Defence Export Control Authority (DECA) to the Respondent 5, permitting it to export the surveillance system developed by it, which, the Petitioners claim, was used and/or is being used against Amnesty International activists.

Having thoroughly and exhaustively reviewed the claims and arguments made by the parties, I have decided to reject the petition.

I will succinctly state that, taking into account the entirety of the information brought forth by Respondents 1-4, I was convinced that the process of control and handling applications for defence marketing and/or exportation licences is a sensitive, meticulous process, under which the export applications are thoroughly reviewed, consulting with the various defence entities and institutions dealing with aspects of defence, political aspects, technological aspects etc. Licences are granted at the end of a thorough and meticulous process, and even after it is granted, the Authority continues to maintain strict control and monitoring, and, if the need arises and inasmuch as any abuse or breach of the terms of licence is identified, especially where violations of human rights are concerned, revocation or suspension procedures are exercised on the defence export licence.



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The Petitioners have not established an evidentiary basis sufficient to back the claim of an attempted surveillance against a human rights activist by hacking into their mobile phone device, nor that this attempt was indeed carried out by Respondent 5.

Without asserting whether or not Respondent 5 holds a defence marketing and/or export licence, I am assured that Respondents 1-4 carry out their job meticulously prior to granting such marketing and/or export licences, and even after the licence is granted, its holder is subject to close monitoring by DECA, which exhibits special care and attention towards issues of human rights violations.

In light of the above, the Appeal is rejected.

Beyond the strict letter of the Law, given the subject matter, I did not see fit to charge court costs.

Judgment rendered today, [20 Tamuz, 5780], July 12th, 2020, in absentia.

[signature]

Rachel Brkai, Senior Judge