

The Tel Aviv – Yafo District Court – In Its Capacity as a Court for Administrative Matters

Presided over by the Honorable Senior Judge Rachel Barkai

12 July 2020

Petition No. 28312-05-19 Molly Malkar and 29 others vs. Security Representative Racheli Chen and others

Petitioners: 1. Moly Malkar and 29 others
Represented by Attorney Itay Mack

Against

Respondents:

1. Head of the Defense Export Supervision Division
2. The Minister of Defense
3. The Ministry of Defense
4. The Ministry of Foreign Affairs
Represented by Attorney Sarah Blu - Tel Aviv District Attorney - Civil
5. NSO Group Technologies Ltd.
Represented by Ran Sprinzak

Decision

In this petition, the Petitioners petitioned for relief according to which the court will instruct Respondent 1 to exercise its authority, granted to it under the Defense Export Controls Law, 2007 (“the Export Control Law” herein), to order that the defense export license granted by the Defense Export Control Agency (DECA) to Respondent 5, permitting it to export the surveillance system it developed, and that, according to the Petitioners, was and/or is being used to monitor Amnesty International activists.

After continuously reviewing the claims of the parties, I found it appropriate to deny the petition.

In brief I will say that, from all of the statements brought before me, , by respondents 1-4, I became convinced that the control process and the handling of defense marketing and/or export license requests is a sensitive and rigorous process, during which export license requests are thoroughly

examined by the various defense agencies that deal with national security and political matters, and with technological and other aspects. A license is granted after completion of a rigorous process, and after the license is granted, the Authority undertakes close supervision and monitoring, and if necessary, and if it was found that use was made in violation of the license conditions, and in particular in cases of human rights violations, steps are taken to cancel or suspend the defense export license.

The Petitioners did not provide a sufficient evidentiary basis to support their claims according to which an attempt was made to monitor a human rights activist through an attempt to penetrate his mobile phone, nor that this attempt was carried out by Respondent 5.

Without determining whether Respondent 5 possesses a defense marketing and/or export license, I am satisfied that Respondents 1-4 conduct their activities with the utmost care prior to granting a marketing and/or export license and afterwards, the licensee is subject to close monitoring by DECA, which exhibits an elevated sensitivity to human rights violations.

In light of the above, the petition is denied.

Ex gratia, and given the topic of the hearings, we did not find it appropriate to demand payment of expenses.

Submitted today, 12 July 2020, in absences of the parties.

Rachel Barkai, Senior Judge