

Your Excellency Ambassador Annika Ben David,

We write to you today as a coalition of nine civil society groups in order to ask you to reconsider the Swedish government's position on the proposed recast of the EU regime regulating export controls of dual use technology to third countries.

The export of surveillance equipment to governmental institutions and agencies involved in human rights abuses, and to countries lacking sufficient legal frameworks to protect human rights, poses a serious risk to the EU's interests in and obligation to protect human rights, democratisation, and rule of law. Moreover, we believe, it is antithetical to Sweden's commitment to safeguarding human rights across the globe. Particularly Sweden's leadership at the United Nations Human Rights Council and the presentation of the bi-annual resolution on the promotion, protection and enjoyment of human rights on the internet, shows a clear understanding of the need to guarantee that the same rights people have offline are also protected online.

The EU Commission proposed the recast of this regulation in September 2016 in the hope of bringing in a human rights dimension for the export of potentially harmful technology to countries with poor human rights records. The Parliament strengthened some of the definitions in the draft and adopted a more technologically nuanced version of the text in January 2018. Now, as the Council is in the process of finding a joint position, a group of nine member states – Sweden being a member – is suggesting walking back the proposed human rights provisions.

Over the past several years, all of the undersigned organisations have consistently worked to contribute to the recast, by offering our on-the-ground expertise to and sharing versatile experiences with the involved EU institutions. Our key objective is to bring accountability to the unchecked trade of surveillance technology. We have provided countless reports to show how authorities have used surveillance powers nominally targeting criminals and terrorists against human rights defenders, activists, journalists, lawyers, and others.

We have provided this evidence to underline the necessity for the EU regulation of dual-use technology to address the following:

Human rights protections must be strengthened so as to have definitive impact

Member states must be required to deny export licenses where there is a substantial risk that those exports could be used to violate human rights, where there is no legal framework in place in the country of destination governing the use of a surveillance item, or where the legal framework for its use falls short of international human rights law or standards.

All relevant surveillance technology must be covered

The export of certain listed cyber-surveillance items must be controlled in relation to their human rights risks. A mechanism to update the EU control list should ensure transparency and inclusive consultation that takes into account both the expertise of all stakeholders, including civil society, and international human rights law. A narrowly-defined catch-all clause should cover human rights risks linked to unlisted surveillance technology.

Greater transparency and reporting must be made mandatory

Member states should publicly disclose export licensing data. Such transparency is crucial in enabling parliaments, civil society, industry, and the broader public – both in the EU and in recipient countries – to meaningfully scrutinise the human rights impact of the trade in dual-use items and to assess whether or not license application decision-making is in accordance with the law.

Security research and security tools must be protected

To reinforce the protection of research as stated in the preamble, the new regulation should include clear and enforceable safeguards for the export of information and communication technology used for legitimate purposes and internet security research.

We are calling on the Swedish government to review its position against these criteria. The approach suggested in the position of the nine member states mentioned above fails to provide meaningful human rights safeguards and to address the human rights risks linked to surveillance technology.

In order to uphold the EU's and member states' human rights commitments, we would like to appeal to you to provide the Swedish government with support and expertise to reconsider their stance on this issue, and instead show human rights leadership in adopting a future-proof framework which allows us to trade seamlessly while upholding Europe's shared values.

We are available to meet with you at your earliest convenience and discuss more about the work that has led us to develop the recommendations above.

Sincerely,

ORGANIZATIONS

