

14 May 2019



Ivan Penchev
Director of the International Controlled Trade and Security Directorate
International Trade Control Department
Ministry of Economy
Sofia, 8 Slavianska Str.

C/C
Ms Maya Manolova, Ombudsman of the Republic of Bulgaria

Subject: Investigation into export licenses to the NSO Group

Dear Mr. Penchev,

We write to you to request an investigation into export licenses which have reportedly been [issued](#) by Bulgarian authorities to the NSO Group -- a firm whose technology has been repeatedly linked to violations of the human rights of individuals around the world.

Access Now is a global civil society organization committed to defending and extending the human rights of users at risk. We seek to advance laws and global norms to affect long-term systemic change in the area of digital rights and online security, developing insightful, rights-based, and well-researched policy guidance to governments, corporations, and civil society.

As a part of our commitment to those goals, we have been heavily invested in the recast of the [EU dual-use regulation](#). Over the past three years, we have worked with representatives from the European Commission, the European Parliament and representatives of Member States in order to achieve meaningful reform of the EU's export controls regime for the protection of human rights.

It is alarming to see an ever-increased appetite of governments around the world to deploy cyber-surveillance as a means to subvert political dissidents, surveil journalists, and further marginalize at risk populations. NSO Group's Pegasus spyware appears to have played an [instrumental role](#) in those efforts. Over the past days it [has been revealed](#) that a security vulnerability in WhatsApp has been exploited by attackers to inject NSO spyware into smartphones, showing just how widespread the security problem can be.

We are therefore concerned to learn that Bulgarian authorities have considered and issued licenses to this company that routinely appears in [news reports](#) detailing human rights violations linked to its clients and services.

Independent research has credibly attributed NSO Group's Pegasus spyware to attacks targeting a wide swath of civil society, including [at least 24](#) human rights defenders, journalists and parliamentarians in Mexico, an [Amnesty International employee, Omar Abdulaziz](#), [Yahya Assiri](#), [Ghanem Al-Masarir](#), award-winning human rights campaigner [Ahmed Mansoor](#), and allegedly, the [targeting of assassinated journalist Jamal Khashoggi](#).

Some of these individuals and organizations appear to have been targeted solely as a result of their criticism of governments that utilized the spyware or because of their work bearing on human rights and corruption issues of political sensitivity to those governments. This targeting is in violation of international norms on recognized human rights such as the [ICCPR](#), namely freedom of expression under Article 19. Targeting persons without a lawful, and legitimate basis and [necessary and proportionate](#) means would constitute a violation of their right to freedom from unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. Egregiously, the targets were often [spouses or even children](#) of the identified individuals.

The recent case of unlawful targeting of civil society in Mexico illustrates the challenges to achieve access to remedy for human rights violations linked to surveillance technology. Although a federal investigation into abuses associated with NSO Group's spyware was opened by the Mexican government in 2017, the lawyers of the victims with access to the file report that NSO Group has so far failed to adequately cooperate with investigators, and the investigation has since [stalled](#).

It is our understanding that the Bulgarian authorities have issued export licenses for surveillance technology in the past and are likely to be approached for similar efforts in the future. Given the information we have presented, we would like to request that you:

Recommendations:

1. Clarify whether you require NSO Group or similar surveillance technology exporters to obtain a license for intra-EU exports, and whether such export licenses have been granted, to your knowledge, in the past 5 years;
2. Disclose details of any instances where, after consultation with NSO Group or internal deliberation, your authorities decided an export license was not necessary under local or EU law;

3. Review surveillance technology licenses which have been issued in the past 5 years, with attention to the procedures followed, and to the actual or potential human rights impacts of any licenses granted;
 4. Share results of any investigation regarding NSO Group, to the extent legally permissible, including information on classification, capabilities, and intended end uses of the controlled technology, and parties to the export;
 5. Clarify whether and under what circumstances you require assessment of the potential human rights impacts of exports, and if so, how such assessments generally impact license determinations; and clarify, specifically, whether your authorities have undertaken or otherwise obtained a human rights impact assessment involving NSO Group, at any point, and how the assessment was used;
 6. Take further positive action in promoting human rights by carefully scrutinizing any further or renewed technology exports or transfers from NSO Group, its affiliates, or similar surveillance technology exporters to ensure their potential human rights impacts are evaluated and steps are taken to prevent adverse impacts.
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We remain at your disposal for any further information we might provide to aid your efforts, as well as to organise a meeting or conference call if that would be helpful.

Thank you in advance for your response and best regards,

Guillermo Beltrà
Policy Director
Access Now



Access Now (<https://www.accessnow.org>) defends and extends the digital rights of users at risk around the world. By combining direct technical support, comprehensive policy engagement, global advocacy, grassroots grantmaking, and convenings such as RightsCon, we fight for human rights in the digital age.

For More Information, please contact:

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