

CASE REPORT _____

Surveillance technology used for repression of dissidents

The Gamma International und Trovicor cases

Munich based firm Trovicor and the British-German company Gamma International Group produce surveillance software that can be used by authoritarian states to commit human rights violations. Since the dawn of the Arab Spring, the use of systematic surveillance of telecommunications as a tool to repress peaceful protest movements has become a common problem. Since the start of the mass protests in February 2011, the Arab Gulf State of Bahrain has used information obtained through intercepted telephone and internet connections to secure arrests of and extract confessions from dissidents. Such actions are facilitated by high-performance technologies, the use of which could only be justified if strictly bound by the highest rule of law standards. There is evidence to suggest that Trovicor maintains software in Bahrain, among other places, which allows security authorities and secret services to intercept, record and analyze large amounts of telephone and computer data. There are further indications that Trovicor's technologies are designed to facilitate so-called 'trojans', hacking programs that allow for more far-reaching surveillance and even the manipulation of data. One such invasive program, Gamma's FinFisher, was found on the computers of Bahraini oppositionists.

Violation of international standards: OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises oblige companies from the signatory states to respect international human rights standards in the course of all foreign business activities. This means that companies must ensure that their activities do not violate human rights directly and do not facilitate or encourage rights violations. There has been international coverage of the opposition protests in Bahrain as well as of the violent suppression of the movement and the use of surveillance technologies as a tool of repression, which means that by summer 2011 at the very latest, representatives at Trovicor and Gamma must have had knowledge of the human rights violations being committed in the country. Yet available information suggests that these companies have maintained their business activities in the state.

Together with Privacy International, Reporters Without Borders, the Bahrain Center for Human Rights (BCHR) and Bahrain Watch (BW), ECCHR has lodged an OECD complaint against both companies. The complaint against the Gamma Group was accepted for consideration by The British OECD National Contact Point on 24 June 2013. A decision of the German National Contact Point regarding the complaint is still pending.

Surveillance technologies can be used a weapon – national export controls necessary

The OECD complaint is intended to show that by selling certain technologies, companies can aid authoritarian regimes in the commission of human rights abuses. Internationally accepted human rights standards such as the OECD Guidelines for Multinational Enterprises prohibit companies from contributing to human rights abuses. We therefore call on Gamma and Trovicor to disclose the nature of their contracts with Bahrain and other authoritarian states and examine them for human rights compliance. These firms must stop selling to and providing services in countries where there is evidence to suggest that the technologies may be contributing to human rights violations. Clauses addressing the issue should be included in all new contracts and existing contracts should be renegotiated. In all future contracts, the companies should undertake to examine the human rights compliance of the business activities in advance of the deal as well as on an ongoing basis thereafter. Moreover, the companies should include precautionary measures in the software that are effective in preventing the misuse of the technology.

States must also recognize that surveillance technologies, like weapons, may be used to commit grave human rights violations and should therefore be subject to stricter export controls. In particular we call on the German government to amend their obstructionist approach at EU level.

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