

Position paper of Reporters Without Borders on the export of German surveillance technology

On the occasion of the Business Forum at the German Ambassadors' Conference on 28 August 2012

1. **Reporters Without Borders Germany calls on the Federal Government of Germany to make the export and sale of software that is used to monitor and spy on journalists and bloggers subject to export controls, and to advocate respective control regulations at the EU level. We recommend that the Federal Government accordingly revise its "Political principles [...] for the export of weapons of war and other military equipment".**
2. **There is evidence that the German Federal Government has supported the export of such software with Hermes export guarantees. Therefore we call on the Federal Government of Germany to clarify publicly whether the sale of such software to another country was secured and supported in the past with Hermes guarantees, or if it is currently planning to support such exports.**

It has been known for years that prominent manufacturers of surveillance technology - including those from Germany - export their products to totalitarian states, and thus contribute to the suppression of free speech and freedom of press on the Internet. We are well aware of the active involvement of the companies Gamma International (part of the international Gamma group with its headquarters in Great Britain), Trovicor from Munich, and Syborg, with its headquarters in Bexbach in Saarland. The software has been supplied to Libya, Bahrain and Egypt, amongst others.

The London-based journalist and university professor Ala'a Shehabi, co-founder of the blog *bahrainwatch.org*, which is deemed to be critical of the government, received e-mails with allegedly recent news about human rights violations. These e-mails were supposed to infect her computer with a Trojan of the company Gamma International (so-called Finfisher). The lives of journalists and their sources across the world are being put at risk by the use of this software.

German surveillance technology has also been exported to Syria. From the very beginning, this country has been on the list of the "enemies of the Internet", which Reporters Without Borders has been publishing since 2006, and which has been submitted to the German government. Surveillance technology was first exported in 2000 by Siemens. In 2008, further equipment was sold by Nokia Siemens Networks. Siemens later sold this business area, which has now been renamed Trovicor.

Today, we are still without an effective control regime to regulate the export of such software to critical regions. If the Federal Republic of Germany is to retain its reputation as a reliable partner in international human rights politics, we urgently need to act in this regard.

Surveillance technology helps secret services, police authorities and other players to monitor the entire communication between individuals and provides them with direct access to all data stored on a computer. In part, this software also allows for the subsequent installation or addition of programmes or files, and hence the planting of false evidence.

"We have to acknowledge that certain software products now are actually as effective as weapons." Marietje Schaake, MEP, July 2012

The domestic discussion on electronic surveillance software in Germany has been significantly shaped by the Federal Constitutional Court's decision on state Trojans in 2008. In the grounds of the decision, the court states that this type of software not only interferes with a core area of

private life, but might also include the manipulation of contents. Therefore, the court permits the use of such software only when it is subject to very strict constitutional requirements, which have not yet been technically realised.

The civil use of this type of surveillance technology is tightly restricted, with some manufacturers supplying their software exclusively to government actors, such as the police, secret services, or other government authorities. Therefore, their export should be subject to the same control regulations as the export of traditional weapons of war. It is incomprehensible that the Federal Government of Germany is aiming at promoting this industry branch (see paper “Future Market Civil Security”, produced by the Federal Ministry of Economic Affairs and Technology). In particular, we cannot identify a major foreign policy interest for the Federal Republic of Germany that would justify the export of this type of software.

The U.S. House of Representatives is currently discussing the Global Online Freedom Act—a law governing the international sale of surveillance software. The draft law was proposed after it came to light that the U.S. company Bluecoat had delivered spyware to Egypt and Libya.

In his speech about the “Arab Spring” in November 2011 at the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik), Federal Foreign Minister Dr. Guido Westerwelle demanded that telecommunications surveillance software be included in the export control regime:

“At the EU level, countries like Germany and Finland - with our strong telecommunications industries - should push for technology used for controlling the Internet to be included in sanctions regimes. If technological development changes the form of repression, sanctions cannot stop at small arms and water cannons.”

We expressly support this demand, and hope that it will be followed up by actions very soon.

Sources:

Federal Ministry of Economic Affairs and Technology – Future Market Civil Security: <http://tinyurl.com/zukunftsmarkt-sicherheit>

Report on Gamma / Bloomberg’s Finfisher Software: <http://tinyurl.com/finfisherbahrain>

Heise.de about Siemens surveillance software in Syria: <http://tinyurl.com/deuschetekniksyrien>

Contribution of FAKT about spyware: <http://tinyurl.com/faktueberwachungsteknik>

Contribution of the media magazine Zapp: <http://tinyurl.com/zappueberwachungsteknik>

Inquiry of Alliance 90/The Greens (Fraktion Bündnis 90 / Die Grünen): <http://tinyurl.com/anfragegrueneueberwachung>

Examples of advertising videos of surveillance technology manufacturers:

<http://tinyurl.com/werbungueberwachungI>
<http://tinyurl.com/werbungueberwachungII>
<http://tinyurl.com/werbungueberwachungIII>

Speech made by Bundestag member Guido Westerwelle at the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik):

<http://preview.tinyurl.com/redebmwesterwelle>

RWB-Report „Internet Enemies Report 2012“

<http://tinyurl.com/9gpuers>