

**Date : 2/8/2021 12:59:16 PM**

**From : "Avital Berger"**

**To : "Vered Shpilman" , "Omer Mucznik"**

**Subject : RE: ספר הנשיא - דו"ח אמנסטי וכתבה בתקשורת**

Hi Vered

I'll update about Marlene about the US side of things.

On the Israel side, Amnesty does refer to the Israeli litigation involving NSO (which we already know about I believe):

Amnesty claims that the Tel Aviv District Court's dismissal, "in a disgraceful ruling", of a case asking the Israeli Ministry of Defence to revoke NSO Group's export license, "[shows] that export of surveillance technology from Israeli companies is used to commit human rights violations abroad with impunity." *Pages 20-21.*

But Amnesty also referred to petitions filed by Tamar Zandberg in 2016 and 2017 relating to arms exports to South Sudan. Amnesty says that these petitions were subject to gag orders and so Amnesty could not find out if the Israeli company, or companies, which were the subject of the petition were Verint and/or NSO and/or another company:

The report refers to a petition filed before the Israeli Supreme Court in 2016 seeking to freeze the export of spyware from Israel to South Sudan, as well as a petition filed before the Israeli High Court in 2017 seeking to open a criminal investigation into Israel's arms exports to South Sudan. *Page 19.* Amnesty states that, since these proceedings are subject to gag orders, it is unclear which company sold the surveillance equipment to which the petitions relate. The report claims that it is therefore possible that the Government of South Sudan bought more than one surveillance equipment from Israel. *Page 20.*

Omer – I think you found the case through Nevo but because it is under a gag order none of the details are public. Is that correct?

Avital

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**From:** Vered Shpilman <VeredSh@justice.gov.il>  
**Sent:** Monday, February 8, 2021 2:49 PM  
**To:** Omer Mucznik <OmerMu@justice.gov.il>  
**Cc:** Avital Berger <AvitalBer@justice.gov.il>  
**Subject:** RE: ספר הנשיא - דו"ח אמנסטי וכתבה בתקשורת

היי עומר.  
לא – אין צורך לגבי NSO. מרלין התכוונה להליכים שהוזכרו בסקירה של אביטל מטה – למשל העתירות לבגץ (עתירות בדר"כ לא חסויות) וכל הליך אחר בארץ שקשור. לדעתי לא הוזכרו בסקירה מטה הליכים כנגד NSO.  
אנא קראי את הסקירה של אביטל ושלפי משם הליכים רלבנטיים בארץ ונסי לאתר אותן – באתר בתי המשפט, בנבו, בפרסומים באינטרנט ובכל דרך שכזו.

המון תודה

ורד

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**From:** Omer Mucznik <[OmerMu@justice.gov.il](mailto:OmerMu@justice.gov.il)>  
**Sent:** Monday, February 8, 2021 2:46 PM  
**To:** Vered Shpilman <[VeredSh@justice.gov.il](mailto:VeredSh@justice.gov.il)>  
**Cc:** Avital Berger <[AvitalBer@justice.gov.il](mailto:AvitalBer@justice.gov.il)>  
**Subject:** RE: ספר הנשיא - דו"ח אמנסטי וכתבה בתקשורת

היי ורד מה שלומך?  
אשמח להסבר בדיוק מה את רוצה שאמצא – כתבות/הליכים בנבו/פרסומים?  
חיפשתי בבוקר (וגם התייעצתי עם אביטל) ונראה שכל ההליכים או שהוטל עליהם צו איסור פרסום או שהם התקיימו בדלתיים סגורות. מצאתי המון כתבות בהארץ על עתירות שהוגשו בנוגע לספר הנשיא ו/או על הליכים בישראל כנגד NSO, האם לזה התכוונת?  
בברכה,  
עומר

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**From:** Vered Shpilman <[VeredSh@justice.gov.il](mailto:VeredSh@justice.gov.il)>  
**Sent:** Sunday, February 7, 2021 6:48 PM  
**To:** Omer Mucznik <[OmerMu@justice.gov.il](mailto:OmerMu@justice.gov.il)>; Avital Berger <[AvitalBer@justice.gov.il](mailto:AvitalBer@justice.gov.il)>  
**Subject:** FW: ספר הנשיא - דו"ח אמנסטי וכתבה בתקשורת

היי עומר ואביטל,  
עומר – האם תוכלי לבדוק מהם ההליכים בארץ המוזכרים בדיווח של אביטל מטה ולתת קצת רקע עליהם ומה הסטטוס הנוכחי שלהם/כיצד הסתיימו?  
אביטל – מרלין ביקשה להריץ את השם של החברות ולראות אם נפתח הליך אזרחי בארה"ב בעניינים.  
תודה  
ורד

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**From:** Marlene Mazel <[MarleneM@justice.gov.il](mailto:MarleneM@justice.gov.il)>  
**Sent:** Sunday, February 7, 2021 6:03 PM  
**To:** FW-RamR <[rraviv@mod.gov.il](mailto:rraviv@mod.gov.il)>; 'yoamash123@gmail.com' <[yoamash123@gmail.com](mailto:yoamash123@gmail.com)>; 'INBAR\_LINHARD@MOD.GOV.IL' <[INBAR\\_LINHARD@MOD.GOV.IL](mailto:INBAR_LINHARD@MOD.GOV.IL)>; David.GoldfarbFW <[David.Goldfarb@mfa.gov.il](mailto:David.Goldfarb@mfa.gov.il)>; FW-GilA <[gila@pmo.gov.il](mailto:gila@pmo.gov.il)>; Haim Vismonski <[HaimV@Justice.gov.il](mailto:HaimV@Justice.gov.il)>; Moran Ashwal <[MoranAsh@justice.gov.il](mailto:MoranAsh@justice.gov.il)>; YoamashEFw <[Yoamash\\_Elazar@Police.gov.il](mailto:Yoamash_Elazar@Police.gov.il)>; 'legal4808@gmail.com' <[legal4808@gmail.com](mailto:legal4808@gmail.com)>  
**Cc:** Roy Schondorf <[RoySc@justice.gov.il](mailto:RoySc@justice.gov.il)>; Vered Shpilman <[VeredSh@justice.gov.il](mailto:VeredSh@justice.gov.il)>; Itai Apter <[ItaiA@justice.gov.il](mailto:ItaiA@justice.gov.il)>; Cedric Yehuda Sabbah <[YehudaC@justice.gov.il](mailto:YehudaC@justice.gov.il)>; Avital Berger <[AvitalBer@justice.gov.il](mailto:AvitalBer@justice.gov.il)>  
**Subject:** ספר הנשיא - דו"ח אמנסטי וכתבה בתקשורת

שלום וברכה,  
ראו נא את הסיכום מטה שערכה אביטל ברגר מצוותנו ביחס לדו"ח אמנסטי שפורסם ב-2.2.2021 וכולל אמירות ביחס למשטר הפיקוח על הייצוא הביטחוני של ישראל, וכן לכתבה מסוימת בתקשורת.  
בברכה,  
מרלין וורד

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## I. Amnesty International Report

On 2 February 2021, Amnesty International ("**Amnesty**") published the attached report which purports to "provide[] new insights into the surveillance capacity of the Government of South Sudan and the impact of how this is abusively deployed without safeguards."

In particular, the report alleges that the Government of South Sudan, primarily through the National Security Service (NSS), "conducts communications surveillance with at least one type of equipment bought in Israel." Amnesty claims that, between 2015 to 2017, the Government of South Sudan purchased surveillance equipment and serviced from the Israeli company Verint Systems Ltd, which is a subsidiary of the American company Verint Systems Inc. Amnesty states "[t]his is concerning because both South Sudan's legal framework governing surveillance **and the Israeli export licencing regime are not in line with international human rights standards**" (emphasis added). *Page 6.*

The report makes a number of criticisms of NSO Group and the Government of Israel, of which I note the following:

- The report repeatedly criticizes the Government of Israel's export licensing regime:
  - "The Government of Israel should create an effective and transparent export licensing regime that prevents exports of dual use surveillance equipment to countries where there is a likelihood that the exported surveillance equipment will be used to violate human rights." *Page 7.*
  - "Exporting jurisdictions have an obligation to ensure that all relevant technologies are scrutinized before transfer and export authorization is denied where there is a substantial risk that an export could be used to violate human rights – either through unlawful surveillance or where the destination country has inadequate legal, procedural and technical safeguards to prevent abuse. **Israel's current export licensing regime does not provide adequate export limitations when there is a high probability that they will be used to violate human rights**" (emphasis added). *Page 20.*
  - Amnesty International's "finding" that support services for surveillance equipment were sold by an Israeli company for use by the Government of South Sudan "is the latest evidence of the Government of Israel's failure to establish a transparent export licensing regime preventing export to countries where there is a likelihood that surveillance equipment will be used to violate human rights." *Page 21.*
  - **The report calls on the Government of Israel to "establish and implement an effective export licensing regime that is transparent and prevents exports of dual use surveillance equipment to countries where there is a likelihood that**

**the exported surveillance equipment will be used to violate human rights."** *Page 43.*

- Amnesty states that the UN Panel of Experts found, in 2016, that "communications interception equipment [purchased] from Israel" has "significantly enhanced" South Sudan's National Security Service's ability to identify and illegally apprehend individuals. *Page 19.*
- The report refers to a petition filed before the Israeli Supreme Court in 2016 seeking to freeze the export of spyware from Israel to South Sudan, as well as a petition filed before the Israeli High Court in 2017 seeking to open a criminal investigation into Israel's arms exports to South Sudan. *Page 19.* Amnesty states that, since these proceedings are subject to gag orders, it is unclear which company sold the surveillance equipment to which the petitions relate. The report claims that it is therefore possible that the Government of South Sudan bought more than one surveillance equipment from Israel. *Page 20.*
- Amnesty claims that the transfer of surveillance equipment to South Sudan by an Israeli company, Verint, "**goes against Israel's obligation to protect human rights**" (emphasis added). *Page 20.*
- As purported evidence of Israel's inadequate current export licensing regime, the report refers to the conclusion of the Independent International Fact-Finding Mission on Myanmar, in 2019, that Israel (in addition to other countries) had failed to freeze the transfer of weapons to Myanmar's military, in circumstances where Israel knew or should have known that the weapons would be used to commit serious crimes under international law. *Page 20.*
- In addition, Amnesty draws on its previous reports, and those of Citizen Lab, to allege that NSO's technology has been used to target human rights defenders in Morocco, Saudi Arabia, Mexico, and the United Arab Emirates; Al Jazeera journalists; and an Amnesty International staffer. *Pages 20-21.* Amnesty claims that the Tel Aviv District Court's dismissal, "in a disgraceful ruling", of a case asking the Israeli Ministry of Defence to revoke NSO Group's export license, "[shows] that export of surveillance technology from Israeli companies is used to commit human rights violations abroad with impunity." *Pages 20-21.*
- Amnesty cites sources which allege that **several Israeli companies other than NSO** – including Verint, Nice Systems, and Circles Technology – **provided surveillance technologies which were used to commit human rights violations** in Kazakhstan, Uzbekistan, Nigeria, Peru, Mexico, and Colombia. *Page 21.*
- Amnesty states that it wrote to the Israeli Ministry of Defence "to ask whether they authorised export of surveillance technology to South Sudan ", and that the Israeli Ministry of Defence responded "claiming that defence exports from Israel are "subject to constant scrutiny and periodic assessments, and defense export licenses are granted after individual examination in accordance with the law and international

obligations.”” *Page 21*. In response to questions about South Sudan, Israel’s Ministry of Defense replied that it “does not comment on the export control policy, specific licenses or end users, due to security, policy and strategic considerations.” *See Annex 2, Page 51, Letter from Racheli Chen, Director, Defense Export Control Agency*. Amnesty says that a second letter which it wrote to the Israeli Ministry of Defence on 18 November 2020, asking for a response to its report, was not answered.

Note that Amnesty also wrote letters to the following entities, none of which responded: the United States State Department, with a copy to the US Department of Commerce’s Bureau of Industry and Security (BIS); the Government of South Sudan’s Minister of National Security, Director General of the Internal Security Bureau of the NSS, Minister of Presidential Affairs, Director General of the National Communication Authority, Minister of Information, Communication Technology and Postal Services, Minister of Foreign Affairs, Minister of Justice and Constitutional Affairs, and Minister of Finance and Planning; MTN Group; Zain; Vivacell; and Verint.

- Amnesty reports that a former South Sudan employee of MTN Group, a South African telecommunications company, allegedly told Amnesty that in 2013 the NSS used an Israeli company to install a ‘box’, acquired from Israel, at MTN Group. Allegedly, such ‘boxes’ were installed in all telecommunication companies operating in South Sudan at the time, which was illegal. Amnesty states that it wrote to MTN Group about this, but it is unclear from MTN’s response (at Annex 1, Question 5) “whether MTN allowed the installation of a box acquired from Israel that would enable the government to gain direct access to MTN’s data.”

## II. **Article alleging that Biden received donations from NSO Group**

One America News Network [reported](#), on 3 February 2021, that “Joe Biden reportedly accepted donations from a spyware company, which targeted journalists and human rights activists.” The news report refers to [FARA filings](#) which purportedly show that Joe Biden’s 2020 presidential campaign committee accepted a donation of \$1,750 from John Gallagher, a lobbyist of Mercury Public Affairs who represents Q Cyber Technologies / NSO Group. In this regard, the article appears misleading in describing a donation made by a lobbyist as a donation made by NSO.