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Observatoire des armements



Egypt: A Repression Made in France

Exports of Weapons and Surveillance Technologies

Table of contents

Executive Summary	5
Introduction: The Establishment of a “partenariat privilégié” (Special Partnership) with the Egyptian Security Forces	8
Chapter 1: the consolidation in Egypt of a dictatorship of the security forces since 2013 imposed through unprecedented repression and grave human rights violations	11
1. The establishment of a highly repressive security apparatus that proliferates human rights violations	11
1.1. Strengthened military power	11
1.2. Increasingly powerful intelligence services	12
1.3. Repression of the opposition, civil society and all dissident voices	13
1.4. Repression giving rise to ongoing grave human rights violations	15
Use of lethal force against demonstrators	15
Mass arbitrary arrests	17
Enforced disappearances	17
Torture, abuse and death in prisons	17
Extrajudicial executions	18
Resurgence of the death penalty	18
The countless abuses of the antiterrorist campaign in the Sinai	18
2. At the heart of the repressive measures: widespread surveillance of the population	19
2.1. Digital arms race	19
2.2. From targeted surveillance to mass interception of communications	20
2.3. A totalitarian plan to monitor digital activities	21
2.4. Collecting personal data	23
2.5. Monitoring social networks	23
2.6. Intruding into personal data and monitoring private communications	24
2.7. Surveillance at the origin of grave and repeated human rights violations	25
Fabrication of evidence for use against suspected dissidents	25
Targets of surveillance: opponents, human rights defenders, and LGBTI people	25
Chapter 2: The enormous increase in French exports of surveillance technologies to Egypt: an unconditional partnership in the name of the «fight against terrorism»	27
1. Maintaining exports, especially of equipment used to suppress social movements, despite the repeated violations by Egyptian authorities: a political choice	27
1.1. The demonstrated use of Sherpa armoured vehicles in suppressing protests	28
1.2. Manurhin cartridge manufacturing machines	32
1.3. The CEREBRO (Nexa Technologies) surveillance system	33
Focus : Abu Dhabi: a support base for the French armaments industry in the near East	34
2. The delivery of complementary equipment and technology to enhance Egypt’s control architecture	35
2.1. Crowd control technologies	35
The military satellite (AIRBUS THALES)	36
Patroller Drones (SAFRAN)	36
Sherpa light armoured vehicles	37
2.2. Surveillance technologies	37
Individual surveillance, mass interception and intrusion into personal data: CORTEX (ERCOM/SUNERIS)	38
Mass surveillance technologies: the Morpho/Idemia database	39

Centralization of personal data	39
Biometric identity cards	39
Dual use?	40
Voter authentication terminals	41
Chapter 3: Legal obligations of companies and of the French State, and potential liability for the perpetration by the Egyptian regime of grave human rights violations	43
1. France's unconditional political and diplomatic support for Egypt	43
2. France's oversight of arms sales is inadequate in terms of its international obligations	45
2.1. Specific obligations of the French State with respect to arms transfers	45
2.1.1. The Arms Trade Treaty (ATT)	45
2.1.2. The European Union Council's Common Position 2008/944/PESC defining [common] rules governing control of exports of military technology and equipment*	45
2.1.3 Decisions of the Council of the European Union and the European Parliament on arms exports to Egypt	46
2.2. Specific obligations of the French State concerning exports of «dual-use goods»	47
2.2.1. The Wassenaar Arrangement	47
2.2.2. The plan to strengthen European regulation related to dual-use goods' exports, including surveillance technologies	48
2.3. Obligations of the French State concerning the actions of companies	49
2.4. The French system for controlling exports of military equipment: opaque and inadequate	50
3. Human rights obligations of businesses	52
3.1. The obligation to identify, prevent and mitigate the adverse impacts of their activities on human rights	52
3.2. Potential criminal liability of companies – precedents from the Amesys/Nexa Technologies and Qosmos cases	54
Conclusion	56
Recommendations	57

* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:fr:PDF>

Executive Summary

1 – Egyptian security services with enhanced capabilities are carrying out mass repression of all forms of dissent

Since the military coup of July 2013 orchestrated by General Al Sisi, Egypt has seen a resurgence of the role of the security services and a merciless increase in repression. **The grave human rights violations** committed to this day by the various branches of the security services include arbitrary mass arrests, with the incarceration of at least 60,000 political prisoners since 2013; extrajudicial executions; enforced disappearances (2,811 cases of enforced disappearances at the hands of the security services between July 2013 and June 2016¹) and the systematic use of torture. This modus operandi of the security forces, aimed at eliminating all possibility of dissent, has become everyday reality for all Egyptians, and it specifically targets political opponents and civil society: members of political parties, the Muslim Brotherhood and their supporters, activists in revolutionary movements and of all stripes, human rights defenders, lawyers, journalists, writers, researchers, in addition to LGBTI people or those perceived as such.

The broader powers granted to the armed forces by various laws adopted or amended since 2013 (regulating protests, the fight against terrorism, the activities and funding of NGOs, and so on) directly challenge the freedoms of association, expression and assembly, as well as the right to access to information, and the right to privacy. The expanded jurisdiction of the military courts in October 2014 has enabled Egyptian authorities to refer more than 7,400 civilians to the military courts. Since the overthrow of President Mohamed Morsi, these courts have sentenced at least 60 people to death, and civil courts have sentenced to death hundreds more. The role of General Intelligence and Military Intelligence in these violations of fundamental freedoms and the consolidation of their control through certain legal reforms beginning in 2013 is obvious.

This harsh repression goes hand in hand with a rhetoric of the **“war on terrorism”** used by the Egyptian regime to justify all the abuses committed with impunity by portraying its opponents as “terrorists”. According to data communicated to the press by the Egyptian Interior Ministry itself, at least 12,000 people were arrested for “terrorism”-related charges during the first 10 months of 2015². According to a report by the NGO Safer World, more than 3,000 people have been killed since 2013 in the name of the antiterrorist fight³. This policy feeds resentment among the targeted populations, which is then exploited by jihadist groups, particularly present in the Sinai. When the fight against terrorism is conducted without respect for the most basic fundamental rights of individual citizens, including Sinai residents and the Bedouin community at large, it is inevitably counterproductive.

2 – France’s support for Al Sisi’s regime through an enormous increase in sales of weapons and surveillance equipment

The blank check given by France to this policy and the statement by French authorities in October 2017 that they have no “lessons to teach” the Egyptian regime about human rights⁴, are in fact consistent with a tradition of French diplomacy in the region choosing to view certain dictatorships as a bulwark against Islamic fundamentalism. However, France’s support of Egypt has grown in recent years, officially in the name of the fight against terrorism, yet working hand-in-hand with business interests. The enormous increase in the sale of arms beginning in 2013 and Al Sisi’s arrival in power in Egypt in 2014 have proven profitable for at least eight French companies that have sold equipment – both conventional weapons and surveillance equipment – to Egypt. This partnership enables Egypt not only to benefit from state-of-the-art arms equipment, notably for purposes of domestic repression, but also to assure itself a place on the regional and international scenes.

1. <http://ecrfeg.org/en/2016/09/27/ecrf-publishes-names-people-disappeared-forcibly-egypt/>

2. ‘Almost 12,000 people arrested for terrorism in 2015: Interior Ministry’, *Madamasr*, 30 Oct 2015. Cf. www.madamasr.com/news/almost-12000-people-arrested-terrorism-2015-interior-ministry

3. https://static1.squarespace.com/static/58921b4b6b8f5bd75e20af7e/t/59e475ee49fc2ba4f9849375/1508144641442/SaferWorld_v1_Egypt_pdf-v1.pdf

4. <https://www.youtube.com/watch?v=x84JszbyWc>

In terms of **heavy weaponry**, France has provided Egypt with a conventional military arsenal officially designed for fighting terrorism, including Mistral warships (DCNS); FREMM frigates (DCNS); gunboats (Gowind); Rafale fighter planes; armoured vehicles (RTD); bombs; Mica air-to-air missiles and SCALP cruise missiles (MBDA); and two ASM surface-to-air missiles (SAGEM). With respect to **light and small calibre weapons**, between 2013 and 2015 France issued export licenses to Egypt for items falling into the categories of “ammunition and spindle attachment devices”; “bombs, torpedoes, rockets, missiles and other explosive devices”; and “ground vehicles and components thereof”. Between 2015 and 2016, the value of export licenses to Egypt for light and small calibre weapons went from EUR 702,002 to EUR 2,003,575. Finally, a variety of **surveillance equipment** has also been sold to Egypt, including technology for individual surveillance (AMESYS/NEXA/AM Systems), mass interception (SUNERIS/ERCOM), personal data collection (IDEMIA) and crowd control (AIRBUS/THALES, SAFRAN, RTD). Most of the weapons and vehicles supplied to Egypt have been equipped and geared toward the repression and control of social movements through a widespread surveillance of the population. This equipment forms a framework of mutually complementary elements meant to prevent or control any social movement or large-scale crowd movement.

3 – The legal framework and responsibilities of companies and of the French State

The legal framework regulating French arms sales results mainly from the **Arms Trade Treaty (ATT)**, which stipulates that when there is a substantial risk of negative consequences, no export authorisation may be given, and the **European Union Common Position 2008/944/PESC** of the Council of the European Union dated 8 December 2008⁵, the second principle of which advocates the denial of export permits if there is an “obvious risk that the equipment whose export is contemplated will be used for domestic repression”. On the subject of surveillance equipment, a **European Community regulation** (EC regulation No. 428/2009 dated 5 May 2009, amended) governs exports of “dual-use goods”, a category that includes goods that can be used for both civilian and military purposes, since their export is not prohibited *a priori* (as is the case for conventional weapons) but are subject to restrictive control, generally in the form of a license obligation. Concerning Egypt, the Foreign Affairs Council of the EU noted on 21 August 2013 that: “The [EU] Member States have decided to suspend export licenses to Egypt for any equipment that could be used for domestic repression, to reassess export licenses for equipment covered by Common Position 2008/944/PESC and to re-examine the security assistance that they give to Egypt”⁶.

These positions and legal obligations have reportedly not always been respected, including in the three following cases related to:

- The authorisation by French authorities for deliveries of Renault Trucks Defense armoured vehicles between 2012 and 2015, despite their use in Egypt for urban repression beginning in August 2013, notably in the dispersal of the Rabaa Al Adawiya sit-in, which left about a thousand dead in Cairo on 14 August 2013;
- The authorisation by the Interministerial Commission for the Study of Military Equipment Exports (CIEEMG) for the delivery of Manurhin cartridge manufacturing machines a few days after the massacre of over 1000 demonstrators by Egyptian security forces in Rabaa Al Adawiya Square in Cairo in August 2014, stating that these machines were nothing but a link in a chain of weapons manufacturing, despite French customs having decided to block the delivery;
- The ambiguous opinion handed down in 2014 by the French Interministerial Commission of Dual-Use Goods (CIBDU) concerning the license application by the company Nexa Technologies for the export of a highly intrusive surveillance system. CIBDU determined that the material in question was “not subject” to a license application, despite it belonging to the category of official dual-use goods under CIBDU’s authority, which was tantamount to a *de facto* authorisation and made it possible for the material to be delivered to the Egyptian army intelligence services.

In light of these facts, it appears that the French control mechanisms – CIEEMG for conventional weapons and CIBDU for surveillance technologies – are ineffective, even ill suited, for ensuring respect for France’s international commitments. FIDH and its Egyptian and French member organisations, the

5. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:fr:PDF>

6. <https://www.sipri.org/sites/default/files/2016-03/EU-Council-conclusions-on-Egypt.pdf>

Cairo Institute for Human Rights Studies (CIHRS) and the Human Rights League (LDH) respectively, as well as its partner the Armaments Observatory, request the implementation of a permanent parliamentary control mechanism, as well as effective transparency measures, in order to ensure a genuine democratic debate on these questions. Furthermore, in the case of Egypt, it appears imperative to review the policy of unconditional support for the Al Sisi regime pursued by recent governments and to question the legality of the arms sales made since 2013.

The revelations contained in this report concerning exports to Egypt by certain French companies, themselves subject to a restrictive legislative framework, have in particular made it possible to confirm that in 2014 Nexa Technologies (ex Amesys) sold to the Al Sisi regime a highly intrusive cyber surveillance system called CEREBRO. FIDH and its member organizations have decided to publicly denounce this contract, since Amesys was already involved in a judicial proceeding for complicity in torture after supplying similar surveillance technologies to Gaddafi's Libya in 2007.

Objectives and methodology of the report

This report is the product of research conducted between April 2017 and March 2018 by the Armaments Observatory, FIDH and its Egyptian and French member organisations, the Cairo Institute for Human Rights Studies (CIHRS) and the Human Rights League (LDH) respectively. The goal was twofold. On the one hand, it was important to highlight the role potentially played by weapons and surveillance equipment that France supplied to Egypt in the repression carried out by the regime of Abdel Fattah Al Sisi, and thus in the commission of grave human rights violations. On the other hand, the evidence revealed in this report shows that French companies and the French State have failed to respect some of their international human rights commitments, which would make them at least partly responsible for the crimes committed by Egyptian security forces.

This report is based on an analysis of:

- Public documents reporting French arms sales: Reports to Parliament on French arms exports, the United Nations Register of Conventional Arms, Reports to the European Union, the UN Comtrade Database, the Stockholm International Peace Research Institute (SIPRI) Database – and information from the International Peace Information Service (IPIS), CIEEMG, Export Authorization of Explosive Products (EAEP) regime and anti-torture regulations, written and oral parliamentary questions, reports or transcripts of hearings of manufacturers before Parliament and of Foreign Affairs, statements about Egypt by the French government, reports on Egypt by FIDH and other NGOs since 2011, and specialized media;
- Meetings with sources, experts and/or engineers in the arms industry, other experts and journalists;
- Internal arms industry documents and brochures;
- Meetings with witnesses to repressive military and police operations that took place in Egypt between 2013 and 2016;
- Video and photographic documentation of these operations;
- Audio-visual archives of journalists who were present at, among other places, the site of the Rabaa Al Adawiya massacre in Cairo on 14 August 2013, and the demonstrations of 25 January 2014 and 15 April 2016 in Cairo.

Introduction: The Establishment of a “partenariat privilégié” (Special Partnership) with the Egyptian Security Forces

Egypt, 3 July 2013: A military coup d'état by General Abdel Fattah Al Sisi dealt a severe blow to the fragile democratic transition initiated by the revolution of 25 January 2011, already undermined by the authoritarian drift that for several months had marked the presidency of Mohamed Morsi. The latter, who hailed from the Muslim Brotherhood organization, had been elected a year earlier, in June 2012, in the wake of the revolutionary uprising, in the first presidential elections to be generally considered free. The overthrow of President Morsi was followed by an interim government dominated by the Armed Forces, which quickly laid the groundwork for a new authoritarian regime imposed through unprecedented repression of all dissenting voices. While a protest movement led by the Muslim Brotherhood was bloodily crushed, security forces consolidated their hold on power and gradually organized widespread surveillance of the population. Despite this context marked by grave human rights violations, France chose to support and strengthen the new Egyptian regime.

In July 2013, Egypt and France had a stable but modest commercial relationship: official figures from the 2015 Report to Parliament on arms exports from France show the value of Egyptian orders placed with French manufacturers reaching EUR 245.3 million during the period of 2009 to 2013: 71.9 million in 2009; 16.3 million in 2010; 43.1 million in 2011; 49.7 million in 2012; and 64.4 million in 2013⁷. Under a defence agreement signed in 2005, the two armies participated in 70 joint military exercises in 2016, and France regularly hosts Egyptian officers at its training centres⁸. The return to power of the Egyptian military transformed these bilateral relations, enabling France to establish itself in just a few years as Europe's leading exporter of heavy weapons to Egypt. While for Egyptian civil society the coup d'état of July 2013 inaugurated a wave of repression unprecedented in the country's modern history and put paid to the democratic transition, for arms manufacturers and French authorities it effectively kicked off a series of monumental sales that would allow them to save the 2014-2019⁹ military budget, and the start of a diplomatic honeymoon that bred unflinching support by France for the regime of Abdel Fattah Al Sisi under the five-year presidential term of François Hollande, and then under Emmanuel Macron.

The coming to power of Abdel Fattah Al Sisi (a former director of Military Intelligence) was among other things an opportunity for France to form a special partnership with Egyptian intelligence services. According to the specialized website Intelligence Online, “the good relationship between the French and Egyptian services was sealed shortly after Sisi took power¹⁰. Since then, Paris has strongly supported Cairo by providing it massive amounts of intelligence on several cases that are key for the regime. The first such case involved Libya, where after getting off to a shaky start, the two countries, supported by the United Arab Emirates, worked together. The French external intelligence agency DGSE and Military Intelligence Directorate (DRM) were unstinting, moreover, in their material and human aid on this occasion¹¹. On 22 January 2018, Bernard Emié, director of the DGSE, became the first foreign intelligence chief to meet the new interim chief of Egyptian General Intelligence, Abbas Kamel, appointed four days earlier.

Between 2010 and 2014, deliveries of French weapons to Egypt increased from EUR 39,6 million to 838.4 million, and order intakes during this period surpassed EUR 1 billion. In 2015 and 2016, these

7. <http://www.defense.gouv.fr/salle-de-presse/dossiers-de-presse/rapport-au-parlement-2015-sur-les-exportations-d-armement-de-la-france>

8. 'La coopération militaire et de défense', La France en Égypte - Ambassade de France au Caire, 23 Mars 2016, <https://eg.ambafrance.org/La-cooperation-militaire-et-de> (*Military and defense cooperation, France in Egypt – French Embassy, Cairo*)

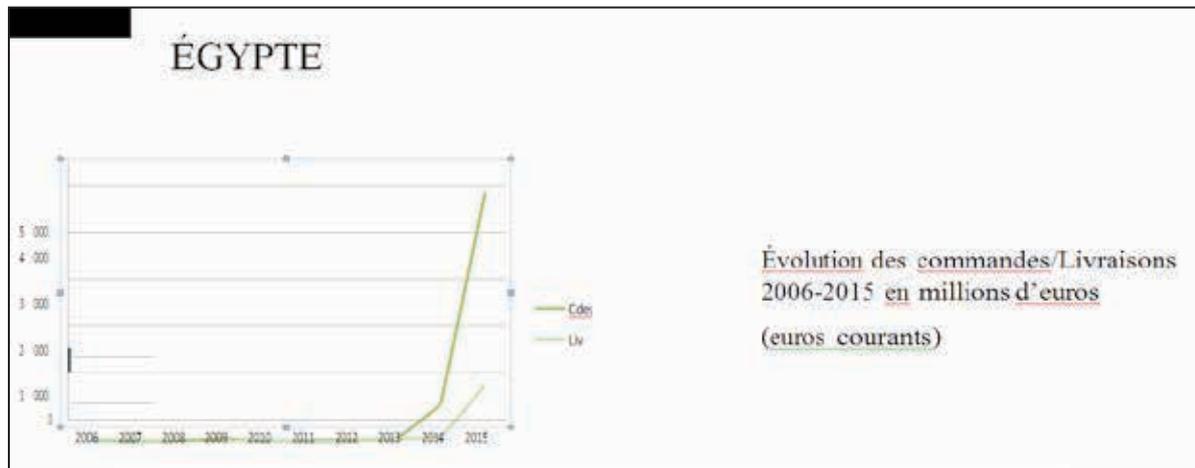
9. These incredible and unexpected contracts (the Rafale was previously deemed unsellable) got the military budget, indexed to the sale of the Rafale, out of the red. (Military Programming Act 2014-2019). Cf. <http://www.iris-france.org/54602-le-rafale-vendu-a-legypte-une-bouffee-doxygene-pour-dassault-mais-aussi-pour-letat/>

10. Cf. 'L'ambitieuse stratégie ITAR-Free d'Abou Dhabi', *Intelligence Online*, No. 731; 03 Nov 2015. (*Abu Dhabi's ambitious ITAR-Free strategy*.)

11. 'How Abbas Kamel became Mukhabarat's New Chief', *Intelligence Online*, 31 Jan 2018.

Cf. <https://www.intelligenceonline.com/grey-areas/2018/01/31/how-abbas-kamel-became-mukhabarat-s-new-chief,108292008-art>

sales surged, with weapons deliveries worth EUR 1.2 billion in 2015 and EUR 1.3 billion in 2016. During the 2012 to 2016 period, arms deliveries to Egypt thus totalled over 10% of total French arms exports¹². Orders soared in 2015 with the signing of two major contracts worth over USD 6.4 billion. These two contracts alone represented more than half of all orders to France in 2015, and they made Egypt France's third largest customer for the 2011-2015 period, behind Saudi Arabia and India. The French government spoke of an "extraordinary revival" of military cooperation with Egypt¹³, whose authorities thus became, in a few short years, a top military partner for France, despite the repression of the opposition and the chronic instability that have marked Egypt's political development since 2011.



Source: 2016 Report to Parliament on French arms exports, page 87

Mistral warships (DCNS), FREMM frigates (DCNS), gunboats (Gowind), Rafale fighter planes, armoured vehicles, bombs, Mica air-to-air missiles and SCALP cruise missiles (MBDA), and two ASM air-to-surface-missiles (SAGEM)¹⁴: a conventional military arsenal officially designed for the fight against terrorism was sold to the Egyptian armed forces, who had faced a growing armed insurrection in the Sinai since the military coup led by Abdel Fattah Al Sisi¹⁵. Along with these heavy weapons, export licenses to Egypt for light and small calibre weapons and armoured vehicles have also been clearly increasing. According to the 17th Annual Report of the European Union on Exports of Military Technology and Equipment¹⁶, between 2013 and 2015, France issued export licenses to Egypt for items falling into the categories of "munitions and spindle attachment devices"; "bombs, torpedoes, rockets, missiles and other explosive devices"; and "ground vehicles and components thereof". Between 2015 and 2016, the value of export licenses to Egypt for light and small calibre weapons increased from EUR 702,002 to EUR 22,003,575¹⁷. Between 2011 and 2017, almost 90 machines for manufacturing ammunition of various calibres (7.62; 9; 20; 23; and 40), identical to those used by Egyptian riot police, were supplied to Cairo by the French company Manurhin. The Egyptian Army expects further deliveries from Manurhin of machines for producing 12.7 mm cartridges for heavy machine guns. Finally, Renault Trucks Defense (RTD) delivered over 200 armoured vehicles to Egypt between 2012 and 2014. According to the Stockholm International Peace Research Institute (SIPRI) and the United Nations Register of Data on Conventional Weapons, the French government authorized the sale and delivery to Egypt of over 100 Renault Sherpas between 2013 and 2015 (18 were delivered in 2012; 96

12. Rapport au Parlement sur les exportations d'armement 2017: <https://www.defense.gouv.fr/actualites/articles/publication-du-rapport-au-parlement-2017-sur-les-exportations-d-armement> (*Report to Parliament on arms exports – 2017.*)

13. France has returned to the heightened level of sales it enjoyed in the 70s and 80s: Alpha jets, Mirage-5, Mirage 2000, Gazelle helicopters.

14. A € 5.3 billion contract signed on 17 February 2015 specified the delivery to Egypt of 24 Rafale fighter aircraft (Dassault), a Normandy FREMM stealth frigate (DCNS), Mica air-to-air missiles and Scalp cruise missiles (MBDA), 2 [two] ASM air-to-surface missiles (Sagem), and lure systems for the Rafale (Lacroix). 'This contract represents more than half of the orders recorded by the French arms industry in the world in 2014'. Cf. Guillon, A., 'Ventes d'armes françaises à l'Égypte : les risques d'une collaboration opportuniste', *GRIP*, Note d'analyse, 25 Jan 2016. (Guillon, A., 'French arms sales to Egypt: the risks of opportunistic collaboration', *GRIP*, Analysis Note, 25 Jan 2016.)

15. Initially concentrated in Sinai, attacks by jihadist armed groups spread to the Nile Valley and the Western Desert, killing more than one thousand Egyptian security forces, according to figures from the Ministry of the Interior, and killing hundreds of civilians since July 2013.

16. <http://eur-lex.europa.eu/legal-content/FR/TXT/?uri=OJ:C:2016:163:TOC>

17. In 2015, France issued two export licenses to Egypt for small arms and light weapons for a total of € 702,000. In 2016, two licenses were issued for the amount of € 2,003,575.

in 2013¹⁸) and transferred 77 RTD “tactical vehicles” that have been photographed in action during deadly police crackdowns against demonstrators in Egypt¹⁹.

In addition to this conventional military and police arsenal, the French government also authorized the sale by French companies to the Egyptian regime during the same period of various surveillance systems and modules for intercepting communications that are not legally considered military equipment but are viewed as potentially “dual-use goods”²⁰. These intrusive technologies have been complemented by the sale by various French companies (IDEMIA, THALES) of systems for collecting and securing personal data and transactions, as part of the implementation by Egyptian security forces of mass surveillance based on the collection of personal data. Furthermore, the integration of surveillance technologies into military equipment is common among the French weapons supplied to Egypt. A satellite (AIRBUS/THALES), drones, interception systems, surveillance technologies, profiling systems, databases, armoured vehicles adapted to urban guerrilla warfare: most of the weapons and vehicles supplied to Egypt are in fact equipped and oriented toward the control of social movements and surveillance of the population.

Taken together, these exports make up interlocking pieces of a puzzle that today constitutes the basis of a plan for widespread surveillance and crowd control adopted by a dictatorship of Egyptian security services. Obsessed with its own survival, this regime is carrying out unprecedented repression of the population, especially of civil society. Technologies for individual surveillance (AMESYS/NEXA/AM Systems), mass interception (SUNERIS/ERCOM), the collection of personal data (IDEMIA) and crowd control (AIRBUS/THALES, SAFRAN, RTD): a myriad of surveillance systems has been supplied to the Egyptian security forces by French companies despite the context of widespread, unprecedented repression, and a deadly “electronic war” conducted by the security forces against opponents, activists, journalists, human rights defenders, researchers, and LGBTI people. These military technologies and dual-use goods supplied by France are the pillars in a control architecture designed to ensnare citizens in a web of widespread surveillance, neutralize all opposition to the military regime, prevent the organization of social movements at all costs, and avoid a new mass uprising like the one that put an end to President Hosni Mubarak’s 30-year reign in 2011.

In this regard, the colossal contracts won by France from the Egyptian ministries of Defence and Interior have provided a significant amount of security to the Abdel Fattah Al Sisi regime and fuelled the new national narrative put forward by the regime²¹ and the government-controlled media about the power and popularity of the Egyptian army. The outsourcing of the production of three Gowind gunboats – of the four sold to Egypt by DCNS in 2014 – to local factories in Alexandria and the plan for the final assembly of the Safran Patroller drones to take place in the Egyptian plants of AOI-factory²², also play an integral role in France’s strengthening of the military and economic capabilities of the Egyptian army²³.

18. These are the Sherpa Light Scout and the Sherpa Light Station Wagon.

19. See Chapter 2.

20. ‘A “dual-use good” is a product or service “likely to have both civilian and military use”, i.e. generally intended for civilian use, for example in industry, but also able to be used to develop weapons or military equipment. As such, its export is not prohibited a priori but is subject to restrictive control, usually in the form of a license obligation. Some dual-use goods or technologies are likely to have conventional military use; others may be used for the production of weapons of mass destruction: nuclear, chemical or biological weapons, or missiles capable of carrying such weapons.’

Source: <https://www.diplomatie.gouv.fr/fr/politique-etrangere-de-la-france/desarmement-et-non-proliferation/la-france-et-le-controle-des-exportations-sensibles/article/controle-des-biens-et-technologies-sensibles-a-double-usage>

21. At the grand opening of the new Suez Canal by Abdel Fattah Al Sisi in August 2015, the Rafale opened the air show.

22. ‘L’Egypte assemblera ses drones Patroller (Sagem)’, Aerobuzz.fr, 24 Sept 2015, <https://www.aerobuzz.fr/breves-defense/l-egypte-assemblera-ses-drones/> (*Egypt to assemble its Patroller drones.*)

23. In addition to involving equipment maintenance for periods ranging from ten to twenty-five years, arms exports to Middle Eastern countries have traditionally included offset ‘compensations’. The transfer of technology is often at the heart of these ‘counters’ demanded by France’s customers in exchange for their purchase of French arms; this results in various investments in the country’s economy, including the ‘relocation’ of production into local factories of all or part of the armaments sold.

Chapter 1: the consolidation in Egypt of a dictatorship of the security forces since 2013 imposed through unprecedented repression and grave human rights violations

Seven years after the Egyptian uprising of 25 January 2011, which had broken out in part against a repressive and corrupt police, the security forces dominate, more than ever, the country's executive, legislative, and judicial authorities. Freed from any civilian supervision that could serve as an effective counterweight, France's Egyptian customers – the Armed Forces, police, and various intelligence services – dominate the State apparatus. They have been orchestrating since July 2013 an unprecedented repression of the opposition, civil society, and all suspected dissident activity. These security entities are responsible for numerous human rights violations perpetrated against civilians, crimes for which they are guaranteed impunity.

1. The establishment of a highly repressive security apparatus that proliferates human rights violations

1.1. Strengthened military power

Following the revolution of 25 January 2011 the military worked nonstop to further free itself from civilian power²⁴ until the adoption in 2014 of a constitution that codifies its domination over the State apparatus. The amendments included in the Constitution adopted in January 2014 following a referendum organized by the Army²⁵, effectively make the latter, whose budget remains confidential, the most powerful institution [in the country]. They drastically limit the powers of the president, especially with regards to domestic security and foreign policy. One clause gives the Armed Forces, for two presidential terms, the exclusive right to appoint the Minister of Defence, freeing the Army once and for all from all civilian supervision. The vast powers granted to the Armed Forces by the new Constitution directly threaten freedoms of expression and demonstration, the right to access to information and the right to privacy, while the fragile freedoms re-established by the new text are left to the interpretation of the legislature²⁶. The dramatic extension of the jurisdiction of the military courts is emblematic of the pall cast over society by the military: "A simple dispute in a gas station, hotel, company or even a supermarket belonging to the Army between an employee and a client"²⁷ is now a case for the military courts. As for "crimes committed by soldiers [or people under their authority] against civilians, in the event of dispersion of protests, for example, they [too] are subject to military justice"²⁸, which guarantees the impunity of the Armed Forces, especially in the repression of social movements.

24. In 2012, on the occasion of the drafting and adoption of a new constitution under the authority of the Muslim Brotherhood, the military secured the decision-making power over military affairs through the creation of a new National Defense Council composed of the Minister of Defense and the majority of the officers. This committee, responsible for the army's budget, was now to be consulted for all laws and decisions concerning military affairs as well as the status of the armed forces.

25. Cf. Talon, C., 'Egypte, l'armée sort victorieuse du referendum constitutionnel', *Mediapart*, 17 Jan 2014. (*Egyptian army comes out ahead in constitutional referendum.*) <https://www.mediapart.fr/journal/international/170114/egypte-larmee-sort-victorieuse-du-referendum-constitutionnel?onglet=full>

26. Articles banning insult to the prophets and limiting freedom, introduced by the Muslim Brotherhood in the 2012 constitutional text, have been removed.

27. Bernard Maugiron, N., 'La constitution égyptienne de 2014 est-elle révolutionnaire?', *La Revue des Droits de l'Homme*, June 2014, p.9. (*Is the Egyptian constitution of 2014 revolutionary?*)

28. Ibid. Bernard maugiron, N., June 2014.

These reforms formed the underpinnings of a strengthened military regime²⁹ founded on a de facto alliance between the army, the judiciary and the police. As of the end of 2013, this alliance was illustrated by the holding of mass show trials, millions of arbitrary arrests, and media broadcasting of the private conversations of activists, primarily those in the opposition. This was accompanied first and foremost by the reestablishment, beginning in July 2013, just a few weeks after the military coup d'état that overthrew President Mohammed Morsi³⁰, of the State Security Intelligence services (Mabahith Amn Al Dawla), renamed National Security (Mabahith Al Amn Al Watani).

Since 2011, thousands of civilians have been summarily killed with complete impunity by military forces or at the hands of security forces, especially during demonstrations, and tortured, sometimes to death, in prisons. These practices have worsened considerably since the military coup d'état of July 2013, and have worsened even further with the appointment of Magdy Abd al-Ghaffar, a leader of State Security (Amn Al Dawla) as head of the Ministry of the Interior in March 2015³¹. Mass arbitrary arrests, extrajudicial executions, enforced disappearances, and the use of torture have effectively become a systematic modus operandi of the security forces and a daily routine for all of society.

1.2. Increasingly powerful intelligence services

State Security, a symbol of the police arbitrariness that the Hosni Mubarak regime used against his opponents (that carried out enforced disappearances, extrajudicial executions, and espionage) and a linchpin of the deadly repression of Islamists in the 1990s, had been dissolved in March 2011 under pressure from demonstrators, who had stormed its headquarters in Cairo. On that occasion, the discovery of internal documents revealed the zeal employed by these services under the authority of the Supreme Council of the Armed Forces, which had governed the country in the interim between Hosni Mubarak's resignation and the election of Mohamed Morsi to the presidency: censorship, surveillance of online content, monitoring of computers, cutting off of communications; under the authority of the military, the "services" had actively embarked upon operations to monitor communications. The decision to reinstate State Security marked the resurgence of the secret services that were to make their mark under the authority of Abdel Fattah Al Sisi, as the cornerstone of the regime in power.

In June 2014, Al Sisi officially assumed power after an election in which he carried 96% of the vote and during which all opposition was prohibited and violently repressed. The period from 2013 to 2017 was marked by a rise in power of various agencies involved in monitoring the population: Military Intelligence (Idarat Al Moukhabarat Al Harbya Wal Istitla3) led by Abdel Fattah Al Sisi from 2010 to 2012; General Intelligence (Al Mabahith Al 3amma); National Security (Mabahith Al Amn Al Watani); and the Administrative Control Authority (Ar-Raqaba Al-Idareya)³². Although each of these agencies officially has its own mandate, recent years have been marked by the growing political role played by Military Intelligence and their increasing involvement in the surveillance of civilians, whether this be through the purchase of extremely intrusive surveillance technologies, the investment of military funds in the security technologies and surveillance sector, the creation of enterprises responsible for these surveillance purchases, or their involvement in investigative proceedings against civilians and the collection of personal data. In addition to those four official agencies, an investigation by the NGO Privacy International³³ revealed the existence of a secret intelligence agency answering directly and exclusively to the president (today Abdel Fattah Al Sisi), which has the largest budget in terms of "security solutions": the Technical Research Department (TRD). A secret unit with opaque activities, whose existence is not

29. A last-minute manipulation allowed the military to have the 50-member constitutional committee vote, at the expense of its members, a modified version of the text in which 'civilian rule' was replaced by 'civilian government', paving the way for election of a military official as the head-of-state. Cf. Talon, C., 'Egypte, l'armée sort victorieuse du referendum constitutionnel', *Mediapart*, 17 Jan 2014. (*Egyptian army comes out ahead in constitutional referendum*)
Cf. <https://www.mediapart.fr/journal/international/170114/egypte-larmee-sort-victorieuse-du-referendum-constitutionnel?onglet=full>

30. This is one of the first political acts of the interim government of Adli Mansour, appointed and controlled by Abdel Fattah Al Sisi. In so doing, the military institution definitively eliminated two demands of the revolutionary popular movement of 25 January against the Hosni Mubarak regime: the reform of the security apparatus, and the ruling out of the competence of the military tribunals to judge civilians.

31. Cf. <https://www.hrw.org/report/2017/09/05/we-do-unreasonable-things-here/torture-and-national-security-al-sisis-egypt>

32. These secret services actively supported the *Tamarrod* mobilisation campaign against the Morsi government and staged the recovery of the mass mobilisation that allowed the army to remove Mohamed Morsi on 3 July 2013.
Cf. <https://uk.reuters.com/article/uk-egypt-interior-special-report/special-report-the-real-force-behind-egypts-revolution-of-the-state-idUKBRE99908720131010>

33. <https://privacyinternational.org/report/666/presidents-men-inside-technical-research-department-secret-player-egypts-intelligence>

officially recognized by the State, the TRD appears to have already existed under the regime of Hosni Mubarak and to have played the role of the president's personal intelligence agency. It seems to have been used by the deposed Raïs to spy on his opponents. Since the late 2000s, although its existence was unknown to the public at large, TRD's resources increased exponentially, thanks to the acquisition (for millions of euros) of surveillance technologies from several European companies, notably Nokia Siemens Networks (NSN) and Hacking Team. The menu of imports by this ultra secret agency with no legal mandate includes: mass surveillance systems; a communications surveillance centre; and a highly intrusive system of management for interceptions and spyware³⁴. These technologies gave it, according to the NGO Privacy International, the ability to intercept telephonic and digital communications from anywhere in Egypt.

Interference by the Egyptian secret services in Egyptian political life has increased markedly since 2013. The legislative elections of December 2015 in particular were an opportunity for General Intelligence and Military Intelligence to assemble a list favourable to President Al Sisi, who was to take a crushing majority of seats in the assembly, following an electoral power grab dominated by pressure from the secret services³⁵. Since 2013, General Intelligence have also extended their control of the media, acquiring through front companies whole sections of the Egyptian audio-visual media landscape and of the written press³⁶. In May 2017, the promulgation of a law restricting the activities of nongovernmental organizations further institutionalized the control of the secret services over NGOs by establishing a new agency charged with supervising civil society organizations. This committee includes representatives of General Intelligence and the Defence and Interior ministries. The law also puts the work of NGOs at the mercy of a veto by security and intelligence forces and gives those forces the right to dissolve NGOs on the basis of extremely vague and general criteria such as "undermining national unity", or "disturbance of public order"³⁷.

In addition to control of the media and NGOs, the secret services have also extended their hold on the judicial system, and today they play an increasing role in the pursuit and prosecution of dissidents: "Investigations conducted by National Security agents, often with no hard evidence, have served as a basis for most of the approximately 7,400 trials of civilians investigated before military courts since the announcement by President Abdel Fattah Al Sisi of a decree expanding the jurisdiction of military courts in 2014", according to the NGO Human Rights Watch (HRW)³⁸. The bringing to heel of the courts and the weakness of the judicial framework surrounding their activities today guarantee Egyptian secret services almost total impunity: "There is hardly any control over intelligence agencies in Egypt", states the researcher Amr Gharbeia, quoted by Middle East Eye. "Their status is that of sovereign actors over which [the courts] have no authority. Surveillance technology can be used to prosecute activists and demonstrators without due process"³⁹.

1.3 Repression of the opposition, civil society and all dissident voices

The consolidation of a dictatorship of security forces was achieved on the eve of the coup carried out by the military against President Mohamed Morsi by prohibiting all forms of political opposition and dissent. The prohibition, which at first applied mainly to the Muslim Brotherhood, whose organization was dissolved and officially declared a terrorist organization in December 2013⁴⁰, was extended de facto to the rest of the opposition with the arrest of the leaders of revolutionary movements such as the April 6 Youth Movement⁴¹. Since November 2013, a law prohibiting all anti-government demonstrations and

34. 'Spyware' is malware installed in a computer or mobile device that secretly collects and transfers information about the environment in which it has been implanted.

35. Bahgat, H., 'Anatomy of an election', *Madamasr*, 14 March 2016.
Cf. <https://www.madamasr.com/en/2016/03/14/feature/politics/anatomy-of-an-election/>

36. <https://www.madamasr.com/en/2017/12/21/feature/politics/looking-into-the-latest-acquisition-of-egyptian-media-companies-by-general-intelligence/>; <https://rsf.org/en/news/egyptian-intelligence-services-extend-control-over-media>

37. Cf. 'Egypt: Mohamed Zaree, Egypt Director of CIHRS, interrogated and charged within the NGO Foreign Funding case', FIDH, May 2017. <https://www.fidh.org/en/issues/human-rights-defenders/egypt-mohamed-zaree-egypt-director-of-cihrs-interrogated-and-charged>

38. <https://www.hrw.org/world-report/2017/country-chapters/egypt>

39. Ibrahim, A., 'In Egypt, concern greets plan to launch nationwide surveillance system', *Middle East Eye*, 13 May 2015. Cf. <http://www.middleeasteye.net/in-depth/features/egypt-plan-launch-nationwide-camera-surveillance-system-met-concern-61072872>

40. Founded in 1928, the organisation has officially renounced violence since the 1970s.

41. One of the main movements behind the revolutionary uprising of January 2011, born in 2008 on the occasion of a strike decreed in the industrial city of Mahalla Al Kobra.

criminalizing protests in general has allowed security forces to systematically arrest all demonstrators: any public opposition to the government is prohibited *de facto*⁴². A series of mass trials resulted in hundreds of people who had been arbitrarily arrested before or during demonstrations being judged in a matter of minutes. The 2013 Protest Law and the Assembly Law number 10/1914 have been used together to make sentences heavier, and to allow for charging many protesters simply because another participant in the same protest is accused of violence and/or carrying a weapon⁴³.

The list of victims of arbitrary arrests, preventive detentions and prosecutions for violations of the Protest Law of November 2013 is growing rapidly. Islamists, revolutionaries, activists of all stripes, human rights defenders, lawyers, journalists, researchers and writers: since 2013, thousands of arbitrary arrests have led, according to a report by the Arabic Network for Human Rights Information⁴⁴, to the incarceration of at least 60,000 political prisoners by August 2016. In August 2015, a new law against terrorism prescribed punishment by death or incarceration ranging from 10 years to life for belonging to a “terrorist organization” – charges that have since been arbitrarily brought against thousands of people suspected of opposition to the regime. The extremely vague accusation of “*promoting ideas that incite violence*”, or visiting Internet sites promoting such ideas, is punishable by a sentence ranging from 5 to 7 years in prison. Fines of up to 500,000 Egyptian pounds (EUR 23,000 in May 2018) are prescribed for anyone publishing data on terrorism in Egypt that contradict official information⁴⁵. Additionally, the Terrorist Entities Law (8/2015), which uses a broad definition for “terrorist entities”, grants authorities the right to ban the entity, its activities and meetings, as well as freeze its property and assets. Individuals added to the “terror list” are subject to travel bans and asset freezes. In May 2017, an unspecified Egyptian security agency has admitted to the blocking of news websites for their so-called support of terrorism. This list of blocked websites increased to over 500 websites, including those of national and international human rights organizations⁴⁶.

The growing militarization of police forces in Egyptian cities beginning in summer 2013 served to complete this highly repressive system propped up by the repressive laws mentioned above. The systematic use of live fire to disperse demonstrators, the mass arrests, and then the adoption in November 2013 of the law criminalizing protests had the effect of causing demonstrations to disappear almost entirely. In January 2015, on the anniversary of the revolution, at least 27 people died when anti-regime demonstrations were put down, including the young activist Shaimaa Al Sabbagh, who was shot dead by a policeman as she was going to lay a bunch of flowers in Tahrir Square in commemoration of the revolution. In a context marked by the strengthening of the fight against terrorism, and at a time when attacks against police posts and army control posts were increasing in the Nile Valley and in the Sinai region, the militarization of police forces was further intensified. The police forces became more heavily armed, and police officers began to carry balaclavas and to use heavy assault weapons ill-suited to crowd-control operations in urban contexts. Apart from situations involving demonstrations and public gatherings, this type of measure began to be used at checkpoints set up during the night in the streets of major cities (the current system for maintaining order in Egypt).

The repression of all forms of “dissent”, whether political, artistic or sexual, has been accompanied by the enactment of a legal framework drastically restricting the activities of Egyptian civil society, which is seen as the linchpin of the revolutionary uprising of 2011. In addition to the antiterrorist law and the law criminalizing protests, the promulgation in May 2017 of a law governing the activities of nongovernmental organizations codified the unprecedented measures taken since 2014⁴⁷ against NGOs, especially those defending human rights. Such measures include freezing of assets, travel bans, and the closure of NGOs. The law subordinates the activities of NGOs to the veto power of a committee including agents of General Intelligence and of the ministries of Interior and Defense – who are vastly more powerful in

42. Cf. ‘Egypt: New assembly law legitimises police crackdown on peaceful protests’, FIDH, 29 Nov 2013. <https://www.fidh.org/en/region/north-africa-middle-east/egypt/14316-egypt-new-assembly-law-legitimizes-police-crackdown-on-peaceful-protests>,

43. <https://cihrs.org/%D9%86%D8%AD%D9%88-%D8%A7%D9%84%D8%A5%D9%81%D8%B1%D8%A7%D8%AC-%D8%B9%D9%86-%D9%85%D8%B5%D8%B1-%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%D9%8A%D8%A4%D9%8-3%D8%AF-%D8%A2%D9%84%D8%A7%D9%81-%D8%A7%D9%84%D9%85/?lang=en>

44. ‘There is room for everyone. Egypt’s prisons before and after January 25 revolution’, ANHRI Report, Sept 2016. Cf. <http://anhri.net/there-is-room-for-everyone-egypts-prisons-before-after-the-25-of-january-revolution/?lang=en>

45. <https://www.theguardian.com/world/2015/aug/17/egyptian-president-ratifies-law-to-punish-false-reporting-of-terror-attacks>

46. https://afteegypt.org/right_to_know-2/publicationsright_to_know-right_to_know-2/2017/06/04/13069-afteegypt.html?lang=en

47. ‘Under Article 78 of the Penal Code, amended by decree of President al-Sisi in 2014, NGO employees can be sentenced to 25 years in prison if a judge determines that they have received foreign funding to “pursue acts prejudicial to national interests” or other more general reasons.’ Source : <https://www.hrw.org/fr/world-report/2017/country-chapters/298315>

practice than the other ministries – which is to supervise and strictly limit NGOs' funding, registration and activities⁴⁸. The law prohibits any NGO activity beyond the social and development sectors, and stipulates that NGO activities must correspond to State-determined development plans. It threatens “the very existence” of NGOs and punishes anyone breaking the law with a penalty of one to five years in prison and a fine of 50,000 to 100,000 Egyptian pounds (about EUR 2,500 to EUR 5,000). In addition, between 2014 and 2017, many travel bans and asset freezes were ordered by the investigative judge in case 173/2011 or “Foreign Funding Case”, in which a lot of the criminal charges are connected to the amended Penal Code article 78.

The fight waged by the security forces against jihadist groups, which since April 2017 has justified the reinstatement of the state of emergency⁴⁹, strengthened and prolonged the extraordinary powers of the police and the armed forces, and served as justification for the repression of civil society and of all forms of dissent. Following the massacre of over 300 people (including 27 children) in the attack on a mosque attributed to the Islamic State in the North Sinai on 24 November 2017, the head of the State Information Service, Dīaa Rashwan, explicitly accused human rights NGOs of complicity in the massacre, accusing them of “supporting” the terrorists by publishing “false” reports⁵⁰. Four years after the military coup that brought General Al Sisi to power, NGOs and activists, victims of real judicial harassment, have for the most part been forced to cease their activities. International NGOs such as Human Rights Watch and FIDH have been forced to close their offices in Egypt.

The presidency of Abdel Fattah Al Sisi has also been marked by an unprecedented persecution of LGBTI people or those perceived as such. According to the Egyptian Initiative for Personal Rights (EIPR), “the average number of individuals arrested and brought before a court in these cases [for charges of “immorality”], has increased five-fold since the last quarter of 2013, in comparison with previous years. Over the course of the period of three and a half years ending in March 2017, a total of 232 people were arrested, or about 66 per year, compared to an average of 14 people per year during the period from 2,000 to 2013”⁵¹. Four years of escalating repression against LGBTI people, which reached their height with the arrest of over 75 people in October 2017⁵² after a rock concert during which audience members waived a rainbow flag.

1.4. Repression giving rise to ongoing grave human rights violations

The legislative arsenal discussed above (the Antiterrorist Law, the Terrorist Entities Law, the Protest Law, the NGO Law, the Assembly Law) had the effect not only of suppressing most fundamental freedoms (freedoms of association, assembly, and expression), but also of guaranteeing total impunity to the various security forces and intelligence agencies. In the name of the fight against terrorism and the preservation of unity and national security, the latter effectively have their hands-free to commit grave human rights violations while repressing all dissent. Since July 2013, this impunity has led to numerous massacres of protesters, a record number of arbitrary arrests, enforced disappearances, deaths under torture in police stations and prisons, extrajudicial executions, forced displacements, a record number of convictions of civilians by military courts, and finally, a resurgence of the death penalty. These crimes perpetrated by the security forces regularly affect minors and children⁵³.

Use of lethal force against demonstrators:

Since 2011, the use of lethal weapons and assault weapons to disperse protests has increased significantly. The increased use of lethal force against civilians since 2011, and especially since 2013, has gone hand-in-hand with a growing militarization of the police forces. Within the Egyptian Ministry

48. <https://www.fidh.org/en/issues/human-rights-defenders/egypt-elimination-of-civil-society-signed-into-law-by-president-sisi>

49. Declared on April 9, 2017, after ISIS suicide attacks on two churches killed 45 people; extended several times since.

50. <http://www.youm7.com/story/2017/11/24/%D8%B6%D9%8A%D8%A7%D8%A1-%D8%B1%D8%B4%D9%88%D8%A7%D9%86-%D8%AC%D8%B1%D9%8A%D9%85%D8%A9-%D8%B3%D9%8A%D9%86%D8%A7%D8%A1-%D9%86%D8%A7%D9%82%D9%88%D8%B3-%D9%8A%D8%AF%D9%82-%D9%81%D9%89-%D8%B4%D8%B9%D8%A7%D8%B1%D8%A7%D8%AA-%D8%A7%D9%84%D9%85%D9%86%D8%B8%D9%85%D8%A7%D8%AA-%D8%A7%D9%84%D8%AD%D9%82%D9%88%D9%82%D9%8A%D8%A9/3525295>

51. ‘The Trap. Punishing Sexual Difference in Egypt’, Report, Egyptian Initiative for Personal Rights, Nov 2017. Cf. <https://eipr.org/en/press/2017/11/trap-punishing-sexual-difference-egypt>

52. Ibid., [...] Report, Egyptian Initiative for Personal Rights, Nov 2017.

53. In a case documented by Human Rights Watch in February 2016, national security agents in Alexandria abducted and tortured 20 people, including eight children, in a protest and fire in a garage and a police vehicle. Source: <https://www.hrw.org/news/2016/04/21/egypt-children-reported-tortured-disappeared>

of the Interior, the police units responsible for maintaining public order are organized into two groups: the Central Security Forces (FCS) and the Security Forces (FS). The FCS comprise the main central body responsible for ensuring public order, and they oversee several sub directorates, including the riot police forces and the support units, called “combat units”, that are sometimes deployed in cities to assist the riot police. Egyptians see the FCS as being the main anti-protest police forces. The FCS also include a Special Operations Unit that prior to 2013 was quite regularly deployed and visible during demonstrations. The FS, for their part, do not fall under the central administration and are instead attached to each regional security directorate, but they are equipped with weapons and facilities similar to those of the FCS. These two types of force can be deployed during a single operation and are very difficult to distinguish from one another.

Under normal circumstances, crowd control during gatherings, demonstrations and situations of public unrest falls under the responsibility of the anti-riot units of the Central Security Forces and Security Forces serving under the administrative authority of the regional security directorates [and] agents of the public security services of criminal investigation directorates or police stations located in the jurisdictions in which the incident took place. These measures are applied to all types of gatherings, including small, entirely peaceful gatherings presenting no threat of violence. However, in recent years, in cases of large demonstrations or major disorder, or in case of events likely to descend into violence, the Ministry of the Interior sends support squadrons or Special Forces units to face-off with protesters, as evidenced by the types of weapons used and the increasingly frequent use of lethal force, as was clearly the case on 28 January 2011, known as the “Day of Rage”, one of the most violent days of the revolutionary uprising of 2011.

FCS and FS units are actually equipped with crowd control weapons, as well as conventional weapons and assault weapons. All training received by these two units includes weapons handling: at a minimum the handling of a 7.62 x 39 mm assault rifle, rifles and tear gas grenade launchers. Specialized squadrons or combat units are also equipped with assault rifles. In the FCS, certain units specialized in the protection of official buildings are usually armed with assault weapons (7.62 x 39 mm assault rifles and light machine guns). “The Special Operations Brigades include external operations detachments (mainly responsible for the security of prominent figures, embassies or installations); these detachments are heavily armed (7.62 x 39 mm automatic rifles, assault rifles, light and heavy machine guns, and 12.7 x 99 mm Browning machine guns mounted on armoured vehicles)”⁵⁴.

Until 2013, the number of victims of crowd control operations remained high, but this was mainly due to the abuse of weapons and ammunition (such as tear gas grenades) with the aim of maximizing their lethal potential, and the occasional use of lethal fire. Beginning in January 2013, a much greater deployment of lethal weapons by the police forces was observed. With the accession of Minister of the Interior Mohamed Ibrahim, orders to shoot to kill seem to have been given more and more frequently and indiscriminately, especially during organized demonstrations in the first three months of 2013. On 26 January 2013, clashes between police forces and demonstrators – after 21 people were sentenced to death in connection with a massacre in a stadium in Port Said a year earlier – caused the death of 42 people, including two police officers. Assault weapons and lethal weapons were used during this violence, which continued for three days⁵⁵.

The violence continued to increase until reaching its height in the summer of 2013. Against a background of increasing clashes between supporters and opponents of Mohamed Morsi, police repeatedly used heavy weapons, including AK-47s and other automatic or semi-automatic weapons, mainly to disperse demonstrators. On 14 August 2013, during the massacre of demonstrators on Rabaa Al Adawiya Square in Cairo by police forces and the Egyptian army, this strategy cost nearly 1,000 people their lives, according to independent sources (about 500 people died according to government sources)⁵⁶. Described by the NGO Human Rights Watch as the “largest massacre of demonstrators in recent history, probably even a crime against humanity”⁵⁷, this event triggered an escalation of deadly violence carried

54. EIPR, Weeks of Killing, Report, 18 June 2014. <https://eipr.org/en/publications/weeks-killing>

55. <https://www.hrw.org/news/2013/03/02/egypt-officials-turn-blind-eye-port-said-police-abuses>

56. See: EIPR, ‘The Weeks of Killing: State Violence, Communal Fighting and Sectarian Attacks in the Summer of 2013’, June 2014. https://eipr.org/sites/default/files/reports/pdf/weeks_of_killing-en.pdf

See also: ‘No Acknowledgment or Justice for Mass Protest Killings’, *Human Rights Watch*, Dec 2013. <https://www.hrw.org/news/2013/12/10/egypt-no-acknowledgment-or-justice-mass-protester-killings>

57. Cf. <https://www.hrw.org/fr/news/2014/08/12/egypte-le-massacre-de-rabaa-et-dautres-tueries-constituent-probablement-des-crimes-or-justice-mass-protester-killings>

out against civilians by the military and police forces in the context of an indiscriminate “fight” against “terrorism”, targeting first the protests of the Muslim Brotherhood and then, very quickly, all other forms of dissent. According to the NGO, “between 5 July and 17 August 2013, the police and the Egyptian army methodically opened fire with real bullets during six demonstrations protesting the military’s overthrow on 3 July of Mohamed Morsi, the first civilian to be elected Egyptian president”⁵⁸. This was not “merely the excessive use of force or insufficient training of the security forces [but] a violent crackdown planned at the highest level of the Egyptian government”⁵⁹, concluded the HRW report. Some of the parties responsible for it are still in power in Egypt.

Mass arbitrary arrests:

The near-total ban on demonstrations beginning in November 2013, the Assembly Law, and the subsequent application of the Antiterrorist Law, to demonstrators in particular, have served to justify mass arbitrary arrests: according to the Egyptian Ministry of the Interior’s own figures, which were released to the press, at least 12,000 people were arrested on charges related to “terrorism” during the first ten months of 2015⁶⁰. In January 2016, the anniversary of the revolution gave rise to many arrests and to police raids on more than 5,000 residential buildings in downtown Cairo as a precaution against demonstrations commemorating the revolutionary uprising. In April 2016, hundreds of people were again arrested when security forces dispersed peaceful demonstrations incited by the government’s decision to hand over two Egyptian Red Sea islands to Saudi Arabia. More than 150 of these detainees, including human rights defenders and journalists, received “sentences ranging from two to five years of prison owing to their participation in these demonstrations”⁶¹.

Enforced disappearances:

Figures compiled by several Egyptian and international NGOs report hundreds of enforced disappearances, at a pace that has increased alarmingly since 2015. Between July 2013 and June 2016, the Egyptian Commission for Rights and Freedoms (ECRF) documented 2,811 cases of enforced disappearance at the hands of security services⁶². This practice, which the authorities resolutely deny, has nevertheless become a regular modus operandi of the Egyptian security forces, and it frequently ends in the torture, and even death, of those thus abducted⁶³. In June 2014, the Guardian revealed the existence of a secret military prison in which hundreds of prisoners were being held incommunicado beyond judicial oversight and tortured by Military Intelligence. According to the British daily newspaper, as many as 400 people were being held in Azouly Prison on Galaa Military Base in Ismailia⁶⁴.

Torture, abuse and death in prisons:

Torture, negligence and other abuse inflicted by security forces, especially by police in police stations and prisons, are systematic and have resulted in a considerable number of deaths since 2013. Between August 2013 and December 2016, ECRF documented at least 44 cases of people who died under torture at the hands of the police forces, 14 of them in 2016 alone, while it reported that its lawyers had received 830 complaints of torture that same year⁶⁵. The many victims of the security and intelligence services include the French citizen Eric Lang, murdered on 13 September 2013 in the Qasr Al Nil police station, in downtown Cairo⁶⁶, and the Italian graduate student Giulio Regeni, who was arrested and tortured to death by security forces in January 2016⁶⁷.

58. ‘Conformément au plan : Le massacre de Rabaa et les tueries de masse de manifestants en Égypte’, (All According to Plan: The Rab’a Massacre and Mass Killings of Protesters in Egypt). <https://www.hrw.org/fr/news/2014/08/12/egypte-le-massacre-de-rabaa-et-dautres-tueries-constituent-probablement-des-crimes>

59. Ibid.

60. ‘Almost 12,000 people arrested for terrorism in 2015: Interior Ministry’, *Madamasr*, 30 Oct 2015. www.madamasr.com/news/almost-12000-people-arrested-terrorism-2015-interior-ministry

61. <http://english.ahram.org.eg/NewsContent/1/64/216807/Egypt/Politics-/More-than--given--to--years-in-prison-for-protesti.aspx>

62. <http://ecrfeg.org/en/2016/09/27/ecrf-publishes-names-people-disappeared-forcibly-egypt/>

63. <https://www.amnesty.org/en/latest/news/2017/08/schoolteacher-among-latest-victims-of-egypts-chilling-wave-of-extrajudicial-executions/>

64. <https://www.theguardian.com/world/2014/jun/22/disappeared-egyptians-torture-secret-military-prison>

65. <https://www.hrw.org/report/2017/09/05/we-do-unreasonable-things-here/torture-and-national-security-al-sisis-egypt>

66. <https://www.nouvelobs.com/monde/20160211.OBS4448/egypte-eric-lang-battu-a-mort-en-prison-sa-famille-attend-toujours-la-verite.html> ([...] *Egypt-Eric Lang beaten to death in prison his family still awaiting the truth*)

67. <https://www.theguardian.com/world/2018/jan/25/italian-student-killed-for-researching-egypt-unions-giulio-regeni>

Extrajudicial executions:

The clampdown on the political scene has been accompanied by deadly repression against civilians, who have been the main victims of the “fight against terrorism” conducted by General Al Sisi and his allies since 2013. According to a report by the NGO Safer World, over 3,000 people have been killed since 2013 in the name of fighting terrorism⁶⁸. According to ECRF, the police “liquidated” at least 37 people during the first three months of 2017 alone, deaths that have yet to be solved by any investigation by Egyptian authorities⁶⁹. Several cases of extrajudicial executions during antiterrorist raids⁷⁰ or following enforced disappearances of opposition members from the Muslim Brotherhood or other political movements have been reported⁷¹. Extrajudicial executions appear to have hit the Sinai particularly hard, where security forces conduct bloody operations on a daily basis against the insurgents of Wilayat Sinai, who are supporters of the Islamic State. Civilians constitute most of the victims of these extrajudicial executions. In April 2017, a video showing the point-blank execution of two to eight unarmed men by Egyptian soldiers in the Sinai confirmed the practice of extrajudicial executions in the Peninsula⁷².

Resurgence of the death penalty:

The military takeover led to a dramatic increase in death sentences after proceedings marked by repeated violations of the right to defense and to a fair trial. In April 2014, for example, an Egyptian judge sentenced to death 683 presumed supporters of the Muslim Brotherhood, including Mohamed Badie, the supreme guide of the group, and upheld the death sentences of 37 of 529 sympathizers who had been previously condemned to death. The expanded jurisdiction of the military courts in October 2014 enabled Egyptian authorities to refer more than 7,400 civilians to military courts between October 2014 and April 2016⁷³. Between October 2014 and September 2017, at least 15,500 civilians, including over 150 children, reportedly appeared before the military courts⁷⁴. Since the overthrow of Mohamed Morsi, these courts have sentenced at least 60 people to death⁷⁵.

According to figures from the Egyptian Initiative for Personal Rights (EIPR), the Court of Cassation upheld death sentences for at least 32 people in 2017, including 8 for political motives⁷⁶. In total, at least 260 people were sentenced to death in 2017 in 81 different cases⁷⁷. 2017 was also marked by a remarkable resurgence of executions. On 26 December 2017, fifteen detainees were executed in a single day by Egyptian authorities⁷⁸ in connection with the alleged killing of security forces in the North Sinai, probably the largest mass execution in the history of the country.

The countless abuses of the antiterrorist campaign in the Sinai:

The Sinai, access to which has been closed by the Armed Forces, is the theatre of an endless war in which the civilian casualties increase in proportion to the proliferation of “antiterrorist” operations by security forces. Indeed, civilians constitute the majority of the casualties of ground and air raids, arbitrary arrests, enforced disappearances, extrajudicial executions, secret detentions, judgments of civilians by military courts⁷⁹, and acts of torture by security forces that have been reported since 2013. Some residents of the North Sinai have described “an Egyptian army out of control, armed with American tanks, airplanes and helicopters, which displays little consideration for the lives of civilians

68. https://static1.squarespace.com/static/58921b4b6b8f5bd75e20af7e/t/59e475ee49fc2ba4f9849375/1508144641442/SaferWorld_v1_Egypt_pdf-v1.pdf

69. <https://www.hrw.org/world-report/2018/country-chapters/egypt>

70. <https://theintercept.com/2017/11/11/egypt-war-on-terror-extrajudicial-killings/>

71. For example, see : <https://www.amnesty.org/en/latest/news/2017/07/egypt-investigate-allegations-of-disappearance-torture-and-extrajudicial-execution-of-four-men/>

72. <https://www.hrw.org/news/2017/04/21/egypt-videos-show-army-executions-sinai>

73. <https://www.hrw.org/news/2016/04/13/egypt-7400-civilians-tried-military-courts>

74. <https://www.hrw.org/world-report/2018/country-chapters/egypt>

75. <https://www.hrw.org/news/2017/06/11/egypt-cancel-military-court-death-sentences>

76. Cf. 'In the Name of the People. A Report on Death Penalty and Accompanying Patterns of Human Rights Violations in 2017', EIPR, January 2018. <https://eipr.org/en/press/2018/01/name-people-report-death-penalty-2017>

77. Ibid.

78. <https://eipr.org/en/press/2017/12/egyptian-government-carries-out-largest-number-executions-its-history>

79. <https://www.hrw.org/world-report/2018/country-chapters/egypt>

trapped in the war zone”⁸⁰. Cluster bombs have allegedly also been used against civilians in the region⁸¹. President Al Sisi officially declared Egypt to be “in a true state of war”⁸² and compared the military operations conducted by the Armed Forces in the Sinai to the wars that pitted Egypt against Israel in 1967 and 1973⁸³. In the North Sinai, more than 6,000 “terrorists” have reportedly been killed in recent years, according to the authorities, although the group Wilayat Sinai, the Islamic State affiliate that is allegedly the State’s main adversary in the Sinai, reportedly has at most a thousand fighters⁸⁴.

The war against armed insurrection in the Sinai has also caused forced population displacement. Mass demolitions of houses⁸⁵, especially in the Rafah Region and along the border with the Gaza Strip, resulted in “the forced expulsion of some 3,200 families in the Sinai Peninsula” between 2013 and 2015 in violation of international law, according to the NGO HRW⁸⁶. According to HRW, Egyptian authorities seem to have “violated the laws of war by unreasonably destroying thousands of homes in their attempts to close smuggling tunnels”⁸⁷. Finally, restrictions on movements imposed on the population severely limit access to essential goods, raising the fear of a serious humanitarian crisis in this region where journalists are refused access and that is increasingly cut off from the world at large⁸⁸.

2. At the heart of the repressive measures: widespread surveillance of the population

In recent years, Egyptian security agencies have considerably developed their capabilities in the areas of mass, targeted surveillance. This development was made possible by the acquisition of technologies that now free the agencies from their previous dependence on telephone operators to access the personal data of citizens and their communications.

2.1. Digital arms race

The end of the 2000s⁸⁹ marked the beginning of an unbridled race by Egyptian security services to buy the most intrusive possible surveillance technologies: the “services” of the Ministry of the Interior, Ministry of the Defense and the TRD entered into a series of contracts for the supply of surveillance software with several European and American companies⁹⁰. Various investigations conducted by the NGOs Citizen lab and Privacy International revealed software packages acquired and used by Egyptian services since 2011, along with equipment for the mass interception of communications and malware for targeted surveillance.

80. Vice, <https://news.vice.com/article/egypts-military-is-killing-civilians-in-its-war-on-terror>

81. <https://www.amnesty.org/fr/latest/news/2018/03/egypt-use-of-banned-cluster-bombs-in-north-sinai-confirmed-by-amnesty-international/>

82. <https://www.youm7.com/story/2017/1/9/%D8%A7%D9%84%D8%B3%D9%8A%D8%B3%D9%89-%D9%85%D8%B5%D8%B1-%D8%AA%D8%B9%D9%8A%D8%B4-%D8%AD%D8%B1%D8%A8-%D8%AD%D9%82%D9%8A%D9%82%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85-%D9%88%D8%A7%D9%84%D8%B1%D8%A3%D9%89-%D8%A7%D9%84%D8%B9%D8%A7%D9%85-%D8%BA%D9%8A%D8%B1-%D9%85%D9%86%D8%AA%D8%A8%D9%87%D9%8A%D9%86/3048027>

83. <http://www.sharkiatoday.com/%D8%A7%D9%84%D8%B3%D9%8A%D8%B3%D9%8A-%D9%85%D8%B5%D8%B1-%D9%81%D9%8A-%D8%AD%D8%A7%D9%84%D8%A9-%D8%AD%D8%B1%D8%A8-%D8%AA%D8%B4%D8%A8%D9%87-%D8%AD%D8%B1%D8%A8-67-%D9%88-73/>

84. <https://www.fidh.org/fr/regions/maghreb-moyen-orient/egypte/egypte-monsieur-macron-le-soutien-aveugle-a-al-sissi-doit-cesser>

See also the report to the US Senate of the US President’s Special Envoy for the Global War Against the Islamic State of June 2016. www.foreign.senate.gov/imo/media/doc/062816_McGurk_Testimony.pdf

85. Notably in the buffer zone along the border of the Gaza Strip where the army destroyed almost all homes and farms.

86. <https://www.hrw.org/news/2015/09/22/egypt-thousands-evicted-sinai-demolitions>

87. Ibid.

88. <https://www.hrw.org/news/2018/04/23/egypt-looming-humanitarian-crisis-sinai>

89. For years, the political management of Sinai, Gaza and, more generally, the ‘Mediterranean rim’ has fostered close cooperation between the Egyptian authorities and various secret services, including the NSA, Unit 8200 (the Israeli intelligence service in charge of intercepting), and GCHQ (the UK’s technical intelligence service), facilitating the acquisition by Egypt of various interception technologies. The GCHQ and the NSA also have a listening station in the Ayios Nikolaos military base on the island of Cyprus. In the mid-2000s, the listening systems installed in Egypt were of American origin.

90. Contracts are usually signed by the Egyptian government with intermediaries, but leaks of internal documents of the Italian company Hacking Team, make direct mention of the Ministry of Defense as a client. In July 2015, the hacking of Hacking Team, itself, and the dissemination of thousands of internal documents, i.e. leaked emails from Hacking Team, mention the Egyptian Ministry of Defense among its clients in Egypt. Wikileaks Hacking Team emails ID 14661: <https://wikileaks.org/hackingteam/emails/emailid/14661>

The systems acquired by Egyptian secret services before 2013, the use of which by Egyptian authorities was established by Citizen lab and Privacy International, include:

- A software application named Finfisher, acquired by State Security (Mabahith Amn Al Dawla) for 2 million Egyptian pounds from the German-British company Gamma Group International⁹¹ and capable of “hacking Skype accounts and messaging accounts associated with Hotmail, Yahoo and Gmail, controlling targeted computers, and recording audio and video conversations and activities taking place near hacked computers that have cameras”⁹².
- An x25 network sold by Nokia Siemens Network (NSN) before 2011 – a technology enabling authorities to access the Internet even in the event that the general network infrastructure is shut down, as was the case in Egypt at the beginning of the revolutionary uprising of January 2011.
- A system of interception management and a centre for surveillance of fixed and mobile networks, two technologies offering mass surveillance abilities, also sold by NSN, in 2011 at the latest.
- A ProxySG serving to randomly monitor, trace and filter content transmitted to users, sold by the American company Blue Coat and installed in August 2012⁹³.
- Remote Control System (RCS), malware sold by the Italian company Hacking Team⁹⁴, which makes it possible to take over a computer, access all of the content saved on it, and monitor its use in real time, capturing the passwords and keystrokes, but also taking screenshots and activating the webcam. The “Remote Control System”, also called DaVinci, cracks the encryption of emails, files and Internet telephone protocols. This surveillance system was allegedly used by Egyptian intelligence against activists between March 2012 and October 2013⁹⁵.

Since 2011 these imports have enabled Egyptian intelligence services and authorities to directly access users’ personal data and communications (including text messages and geolocation) without going through telephone operators⁹⁶ and without due process of law.

2.2. From targeted surveillance to mass interception of communications

Apart from some early experiments aiming to expand surveillance to a mass scale, notably with the cooperation of telephone operators in 2008⁹⁷ during the events of Mahalla, when Egyptian security services tested a widespread blockage of communications at the governorate level⁹⁸, and the coordinated attack that led them to block the various mass communication systems during the revolutionary uprising of 25 January 2011⁹⁹, before 2014 attempts to control cyberspace were mostly limited to “investigating specific content published by defendants in the framework of an investigation or a criminal trial”¹⁰⁰. After the revolution of 2011, however, Egyptian authorities changed their methods and sought to equip themselves with tools of interception and mass data collection enabling them to carry out random monitoring, including massive and continuous surveillance of digital activism¹⁰¹.

91. In the words of the intelligence agency itself, as revealed by the documents found in its archives by protesters in March 2011.

92. Cf. Commercial Offer from Gamma International to State Security: <https://app.box.com/s/hzgm0u2xsi>

93. <https://citizenlab.ca/2013/01/planet-blue-coat-mapping-global-censorship-and-surveillance-tools/>

94. The contract signed with the intermediary GNSE for €412,000, gave TRD the ability to target 25 individual computers or other devices.

95. <https://www.madamasr.com/en/2015/07/06/news/u/hack-of-italian-surveillance-firm-uncovers-contract-with-egypt/>

96. Starting in the early 2000s, the Egyptian authorities lobbied mobile service companies to provide subscriber information. This allowed the Mubarak regime to monitor telecommunications and SMS. Article 64 of the 2003 Telecommunications Act legalized this collaboration and gave the security forces wide powers to intervene in communication networks. Cf. <https://theintercept.com/2015/03/09/arab-spring-surveillance-egypt-intensifies/>

97. Mobilised against the wave of strikes that agitated the industrial city of Mahalla, the various security agencies then set up an emergency task force that brought together representatives of the Ministry of the Interior, General Intelligence, the Ministries of Defense, Communications and Information Technology, as well as the three Egyptian telecommunication companies (Vodafone, Mobinil, Etisalat) to increase their monitoring capabilities of activists’ communications (online and telephone) of activists. They also launched at least two trials (April 2008 and 10 October 2010) to test the blocking of communications, of certain websites (or their slowing down), or Internet access for ‘a city, a governorate or a number of governorates’. Cf. Ezzat, A., ‘You are being watched! Egypt’s mass Internet surveillance’, *Madamasr*, 29 Sept 2014. <https://www.madamasr.com/en/2014/09/29/opinion/u/you-are-being-watched-egypts-mass-internet-surveillance/>

98. Ibid.

99. Raoof, R., ‘Timeline of Communication Shutdown during the Revolution’. <https://secure.flickr.com/photos/ramyraoof/5814392791/sizes/l/in/photostream/>

100. Ezzat, A., ‘You are being watched! Egypt’s mass Internet surveillance’, *Madamasr*, 29 Sept 2014. <https://www.madamasr.com/en/2014/09/29/opinion/u/you-are-being-watched-egypts-mass-internet-surveillance/>

101. Ibid.

2.3. A totalitarian plan to monitor digital activities

A call for proposals issued by the Egyptian Ministry of the Interior, disclosed by the press in June 2014¹⁰², revealed efforts made by that ministry's agents to develop their interception systems, which until then had been adapted to targeted surveillance, by equipping themselves with mass interception tools capable not only of monitoring all digital activity of Egyptian citizens, but also conversations and private exchanges on social networks and secured messaging systems. The call for proposals, which concerned an intelligence system¹⁰³ capable of monitoring and analysing content published on social networks such as Facebook, Twitter, YouTube and online journals, as well as those used to exchange private messages such as Instagram, LinkedIn, Google, Viber and Whatsapp¹⁰⁴, revealed "the government's intention to implement a broad, systematic approach for collecting *open source* data, transforming social media in Egypt into an intelligence resource for the authorities"¹⁰⁵.

The purpose of the system sought by the Ministry of the Interior was, according to the terms of the call for proposals, to enable its agents to "*conduct extensive research*" on social networks in order to identify "anything that might break the law and spread destructive ideas aiming to create disorder and promote discord and corruption in society" and to "identify" and create an integrated, interactive database on: "*people who represent a danger to society*" (defined as those who use illegal terms and expressions that contravene the law, general customs or established social habits and relationships), "*influencers*" and "*their followers, writers, and social network users*"¹⁰⁶. Such a system needed to give intelligence services agents at the Ministry of the Interior, among other things, the ability to:

- "watch everything that is published on the accounts of social network users";
- "collect and analyse data on the Twitter, Facebook, YouTube and Google networks";
- "search for terms and expressions that contravene societal norms, habits, customs and social relationships";
- "identify people who constitute a danger to society";
- "analyse the opinions and propensities of the members of a social network" ["in real time"]
- "identify discussion initiators in relation to the subject or subjects monitored";
- "identify the influential people in a specific geographic area and the relationships amongst them";
- "make it possible to follow the development in real time of writers' opinions";
- "keep files on the followers, admirers and friends linked with accounts of social network users in the system's own lists. And connect the various pieces of information available on these people in case detailed information on them becomes available later";
- "expand the circle of an accusation or restrict it or add to it during a search based on other criteria linked to sex, age, governorate of residence, etc."¹⁰⁷.

Such a surveillance project involves human rights violations that cannot be compared with the methods used in the past by authorities to violate the right to privacy. According to the terms of the call for proposals, the desired technology aims in effect to create a system capable of permanently monitoring all digital activity, whether or not there is any suspicion of criminal or illegal use of the digital space, in violation of the rules of investigation¹⁰⁸. The disclosure of this call for proposals led a group of NGOs and activists to file a complaint against the Ministry of the Interior before the administrative court on 17 June 2014¹⁰⁹. According to information published by the Egyptian press in

102. Source: <https://www.elwatannews.com/news/details/495659> In addition, the call for proposal was confirmed by an Interior Ministry official in a TV interview: <https://www.youtube.com/watch?v=e7rLgrc6MRg>

103. Entitled 'Social Networks Security Hazard Monitoring system (public opinion measurement system)'.

104. These communications take place in a non-public setting; accessing them involves hacking these applications or monitoring the target's phone.

105. <https://www.privacyinternational.org/node/441?PageSpeed=noscript>

106. According to the terms of the tender, the system must also allow intelligence officers to create an 'unlimited' number of user accounts on social networks in order to interact with their users, to infiltrate discussion groups, and refute their opinions.

107. <https://www.elwatannews.com/news/details/495659>

108. 'The power of the investigator, as stipulated in Provision 21 of the Criminal Code, should be limited to investigating crimes, arresting offenders, and collecting evidence for investigation or prosecution', Ahmed E., You are Being Watched, *Madamasr*, 20 Sept 2014.

<https://www.madamasr.com/en/2014/09/29/opinion/u/you-are-being-watched-egypts-mass-internet-surveillance/>

109. <https://cihrs.org/administrative-court-lawsuit-to-stop-social-media-surveillance/?lang=en>

September 2014¹¹⁰, the call for proposals, which has been confirmed by Interior Ministry officials, was reportedly won by Systems Engineering of Egypt (SEE Egypt), a reseller of the American company Blue Coat specializing in cyber surveillance. This company allegedly supplied Egyptian authorities with a system of *Deep Packet Inspection* (in-depth inspection of content), which is used to intercept content as well as personal data on telephone conversations and monitor programs such as WhatsApp, Viber or Skype¹¹¹.

Beginning in August 2016, a series of anomalies began to disrupt Internet traffic, indicating that security services were now targeting the very infrastructure of the Internet and pointing, according to technical experts, to systematic and general attempts by a “State entity to configure a new system to enable mass interception of online communications” and thwarting encryption protocols¹¹². These manoeuvres were achieved by blocking access to the Secure Shell (SSH) communications security protocol, a move that the SSH developer (Digital Ocean) attributes to Egyptian authorities, which [it] accuses of practicing in-depth analysis of certain contents of the Internet network. The Egyptian government then “restricted [the use of] the HTTPS protocol¹¹³ for all websites except those that would attract too much attention”¹¹⁴. The secure network TOR and the secure messaging service Signal, which is very popular with activists, were also attacked, very likely by injections of RST (a malware technique that makes it possible to block Internet connections), and their services temporarily interrupted¹¹⁵. The blockage of Signal in December 2016, according to its developer (Open Whisper System), which holds Egyptian authorities responsible for the blockage, constituted a precedent¹¹⁶: it was the first time that such an attack against the network took place on a country-wide level¹¹⁷.

In order to institutionalize this massive plan to monitor Internet traffic, a draft law officially aimed at “fighting cyber criminality”¹¹⁸ was drawn up behind closed doors and approved by the government in late 2016. This controversial legislation, which was still awaiting approval by Parliament as of the time this report was written, would legalize control of the Internet and make it possible to charge Internet users with offenses ranging from hacking official emails to spreading ideas perceived as aiming to disrupt public order, expose society to danger, endanger the security and economic status of the country, as well as impede the work of authorities, provisions of the Constitution, laws or regulations, national unity or social peace. The penalties prescribed go as far as life imprisonment.

The creation in December 2014 of a Supreme Cybersecurity Council (Maglis Al Amn Al Cyberani) officially charged with “combating threats in cyberspace”, which includes representatives of the ministries of Interior and Defense, is consistent, according to the expert Ramy Raoof (EIPR), “with the government’s broader evolution towards increasing surveillance of opposition figures and militants”¹¹⁹, the goal of this Council being to rationalize and organize State repression.

110. <http://english.ahram.org.eg/NewsContent/1/64/111038/Egypt/Politics-/Egypt-begins-close-monitoring-of-online-communicat.aspx>

111. Ibid. SEE Egypt reportedly started monitoring communications immediately.

112. ‘Media censorship, Tor interference, HTTPS throttling and ads injections?’ Cf. <https://ooni.torproject.org/post/egypt-network-interference/>

113. HTTPS is a protocol for securely transferring hypertexts, the basic units of all web pages.

114. Hamama, M., ‘Infinite eyes in the network: Government escalates attack on secure communication’, *Madamasr*, 10 Feb 2017. <https://www.madamasr.com/en/2017/02/10/feature/politics/infinite-eyes-in-the-network-government-escalates-attack-on-secure-communication/>

115. Ibid., Hamama, M., 10 Feb 2017.

116. Cf. Hamama, M., ‘Signal unstable: Alternatives to the encrypted messaging application’, *Madamasr*, 19 Dec 2016. <https://www.madamasr.com/en/2016/12/19/feature/politics/signal-unstable-alternatives-to-the-encrypted-messaging-application/>

117. Cf. Ibid. Hamama, M., ‘Infinite eyes in the network: Government escalates attack on secure communication.’

118. Cf. ‘Egypt’s new cybercrime bill could send you to prison’, *Madamasr*, 12 Oct 2016. <https://www.madamasr.com/en/2016/10/12/feature/u/egypts-new-cybercrime-bill-could-send-you-to-prison/>

119. Kimball, S., ‘After Arab Spring, Surveillance in Egypt Intensifies’, *The Intercept*, 9 March 2015. <https://theintercept.com/2015/03/09/arab-spring-surveillance-egypt-intensifies/>

2.4. Collecting personal data

Preventive arrests and searches have been the occasion for security forces to plunder the personal data of suspected dissidents. On the anniversary of the revolution on 25 January 2016, security forces thus preventively searched over 5,000 homes in downtown Cairo¹²⁰ to avoid possible demonstrations. During these raids Interior Ministry agents searched telephones and computers, opened personal accounts on social networks (especially Facebook) and collected information on everyone living in the affected buildings and their activities¹²¹.

The unprecedented crackdown that has been unleashed against LGBTI people or those perceived as such since the takeover by Al Sisi has also been the occasion for agents of the Ministry of the Interior to create individual databases enabling them to widen the circle of arrests. Lawyers for many individuals thus arrested have confirmed to the Egyptian Initiative for Personal Rights (EIPR): “the Interior Ministry uses a snowball method to find targets, creating a database with names and ID numbers of those who visit the homes of individuals previously arrested on debauchery charges”¹²².

The Ministry seeks access to servers and databases of operators and distributors of online services – a sign that the creation of such databases is a major preoccupation of the intelligence services. In 2015, for example, the Ministry of Information signed an agreement with MasterCard for the installation of a program that links the use of the banking platform to the national identity number of users, thereby giving authorities access to the banking information of 54 million people¹²³.

In late 2016, Military Intelligence also put pressure on the transportation companies Uber and Careem (based in Dubai), in order to gain access to their servers and databases concerning their clients, drivers and routes¹²⁴. According to EIPR, the Egyptian government also pressures telephone operators to allow them to identify the owners of SIM cards before activating telephone lines¹²⁵.

2.5. Monitoring social networks

The blocking of Facebook’s free basic Internet service in December 2015 was attributed to the platform’s refusal to allow the Egyptian government to spy on users of the application, according to a source cited by Reuters¹²⁶. But that situation would later change.

The emphasis placed by the security services on monitoring social networks aims above all to obstruct attempts at mobilization. According to an expert interviewed by FIDH, security agencies “try to find out what people intend to do and at that moment to interrupt the action in one way or another [...] For example, when a group of people tries to organize a demonstration, sit in, march, or any other form of public gathering, the best way to make [that plan] fail is to monitor the private life [of those involved] and make that surveillance an example to others. How do they go about it? When they arrest someone, they say, “We saw you plan this by email, or we watched Facebook exchanges for this purpose”.

This results in increasing arrests of entire groups of people based on charges linked to the use of communication technologies. According to the researcher Amr Gharbeia, who was interviewed by The Intercept, “Police sources boast of having arrested hundreds of people, even children, sweeping up

120. According to Interior Ministry official figures. See: Michaelson, R., ‘Egyptian police raid’, The Guardian, 22 Jan 2016. <https://www.theguardian.com/world/2016/jan/21/egyptian-police-raid-cairo-homes-2011-uprising>

121. Ibid. Michaelson, R., The Guardian, 22 Jan 2016.

122. ‘The Trap: Punishing sexual difference in Egypt’, Report, Egyptian Initiative for Personal Rights, November 2017. <https://eipr.org/en/publications/trap-punishing-sexual-difference-egypt>

123. <https://newsroom.mastercard.com/press-releases/egyptian-government-and-mastercard-collaborate-to-extend-financial-inclusion-to-54-million-citizens-through-digital-national-id-program-2/>

124. <http://www.maghreb-intelligence.com/renseignements-militaires-egyptiens-uber-careem/> According to a New York Times source, Military Intelligence General Alaa Atwa in charge of negotiating the agreement with Careem said in a meeting with company management: ‘Information is power, and we need it.’

125. According to Amr Gharbeia of the EIPR Technology and Freedom programme, quoted by *Middle East Eye*: ‘There is increasing pressure on telecom companies to not activate a phone line unless they have linked a SIM card to a particular person. This would mean that someone, and not necessarily an authorized government official, can access personal information and identification records to do so’. See: <http://www.middleeasteye.net/in-depth/features/egypt-plan-launch-nationwide-camera-surveillance-system-met-concern-61072872>

126. <https://www.reuters.com/article/us-facebook-egypt/exclusive-egypt-blocked-facebook-internet-service-over-surveillance-sources-idUSKCN0WY3JZ>

entire groups of people associated with a particular IP address. [...] Cyber security researchers have [thus] discovered that a program linked to the American security company Blue Coat was used by the Ministry of the Interior on an Egyptian public network in 2013 to identify and arrest groups of people critical of the government, often on the basis of comments made on Facebook¹²⁷.

Examples are legion. In January 2016, three people were imprisoned for having criticized national institutions on Facebook. The lawyer for one of them explained to the Journal Madamasr how his client had been arrested: "Security forces monitored the IP address and came to look for her father, because the landline was registered in his name. After inspecting the laptop computers, they learned that Eman had "liked" several anti-regime Facebook pages, and they arrested her"¹²⁸. In May 2017, police arrested 28 activists and young members of various political parties for publishing or sharing speech critical of the government on social networks on the occasion of a vast operation conducted in ten governorates. According to the independent site Madamasr, those arrested belonged to deemed opposition parties such as Al Dostour and the Popular Socialist Alliance, among others¹²⁹. The New York Times reported the testimony of a 28-year-old student, Khaled Atraby, who was arrested by the police, beaten and electrocuted in November 2016: "They wanted to know why I had posted comments sympathetic to people who had disappeared in detention"¹³⁰, Mr. Atraby told the New York Times.

2.6. Intruding into personal data and monitoring private communications

Several times since 2013, the telephone conversations of renowned activists and politicians, including the opponent who had supported the 2011 uprising Mohamed El Baradei, were broadcast, especially by the TV program "The Black Box" ("Al-Sandūq Al-Iswid ") with the aim of discrediting them with the public and fomenting conspiracy theories likening the "revolutionaries" and other opposition actors to agents acting to sow chaos in Egypt under orders from foreign powers. In recent years, many renowned activists have also been targeted by "phishing" attacks seeking to gain access to their messaging services and to remotely control their computers, capturing their passwords by sending malicious links and then intercepting codes sent via text messages on their mobile phones. In March and April 2016, this hacking system was used to target the famous journalist and blogger Wael Abbas; the cartoonist and activist Mohamed Gaber; and the lawyer and journalist Nora Younis¹³¹. In late 2016, eminent human rights groups were the victims of numerous phishing attacks aiming to capture their passwords, as documented by Citizenlab¹³². Investigations conducted by independent researchers also established that from that time on, authorities had the ability to access the accounts of activists and take control of their computers by manipulating the "dual verification" process offered by private messaging services and some social networks after intercepting text messages¹³³. Many activists have reportedly been targeted in this manner in recent years.

In July 2014, the independent electronic journal Madamasr published the testimony of an activist who was raped in the middle of the street by State Security agents after they monitored her communications and summoned her to State Security headquarters. She related how this surveillance had worsened since the military came to power: "Things got worse at the end of 2013. She had known for a long time that her telephone was bugged, but printouts of her emails and her private conversations online with her partner had been slipped under her door. In early December 2013 she was summoned to the headquarters of the National Security Agency"¹³⁴. Another notable victim of the surveillance carried out by the intelligence services is Giulio Regeni. The murder of the Italian student, kidnapped on 25 January 2016 by agents of the State and tortured to death, took place after he was put under surveillance¹³⁵. An autopsy revealed the atrocity of the abuses suffered by the young man, whose neck, hands, feet and teeth were broken, while letters had been carved into his flesh, a common practice of the Egyptian police¹³⁶.

127. <https://theintercept.com/2015/03/09/arab-spring-surveillance-egypt-intensifies/>

128. <https://www.madamasr.com/en/2016/01/05/news/u/allegedly-subversive-facebook-activity-lands-3-people-in-jail/>

129. <https://www.madamasr.com/en/2017/05/19/news/u/police-arrest-28-for-critical-social-media-posts-in-nationwide-crackdown/>

130. <https://www.nytimes.com/2017/06/10/world/middleeast/egypt-uber-sisi-surveillance-repression-careem.html>

131. <https://advox.globalvoices.org/2016/04/07/two-step-verification-in-egypt-strength-or-weakness-for-online-security/>

132. <https://citizenlab.ca/2017/02/nilephish-report/>

133. <https://advox.globalvoices.org/2016/04/07/two-step-verification-in-egypt-strength-or-weakness-for-online-security/>

134. <https://www.madamasr.com/en/2014/07/07/feature/politics/sexual-assault-and-the-state-a-history-of-violence/>

135. <https://www.theguardian.com/world/2018/jan/25/italian-student-killed-for-researching-egypt-unions-giulio-regeni>

136. <https://www.theguardian.com/world/2016/oct/04/egypt-murder-giulio-regeni>

2.7. Surveillance at the origin of grave and repeated human rights violations

The human rights violations that occur following the surveillance of communications and activities exercised by the Egyptian intelligence services range from simple questioning to heavy prison sentences, not to mention arbitrary detentions, enforced disappearances, extrajudicial executions, torturing to death, rape, and the public broadcasting of private conversations.

Fabrication of evidence for use against suspected dissidents

Surveillance technologies serving to intrude into personal data, private conversations and content posted online have been used abundantly by the government since 2013 to arrest and prosecute political activists and human rights defenders based on accusations such as “disturbance of the peace”, “defamation of authorities”, or “spreading false rumours in order to topple the regime”. This strategy was confirmed by the terms of the call for proposal issued by the Interior Ministry in 2014 for the purchase of a mass surveillance system, which leaves no doubt as to the use that Egyptian authorities intended to make of this type of technology, specifically in building cases against those critical of the authorities: “The proposed system must be sufficiently flexible to enable it to change and adapt to current security requirements, such as the need to widen or narrow charges, or to add during research other considerations linked to gender, age, governorate of residence, etc.”¹³⁷. In addition to the repressive legislation introduced by the government, the terms of the call for proposal for a system “to supervise threats to security on social networks” (« Social Networks Security Hazard Monitoring Operation ») are equally unambiguous with respect to the types of idea being attacked by Egyptian authorities, which are far from having any link with “terrorism”. Indeed, the “destructive ideas” described in the call for proposal, which [supposedly] threaten “national security and the stability of families” include: “blasphemy and casting doubt on religions; regional, religious, racial and social sedition; the dissemination of unfounded rumours; the intentional distortion of facts; false accusation, defamation, sarcasm, calumny, and the use of vulgar and injurious terms; the call to liberate oneself from the foundations of social order; encouragement to extremism, violence, and rebellion; calls to demonstrations, sit-ins and illegal strikes; the promotion of pornography, delinquency and immorality; the popularisation of techniques for manufacturing explosives, [carrying out] attacks and sowing chaos and riots; calls to normalise relations with enemies and acts contravening State strategies in the matter [...]; taking words out of context in order to harm the speaker; disseminating legends and the pretence of announcing miracles”¹³⁸.

Such uses of surveillance of social networks and intrusion into personal data are well documented. In December 2012, the blogger Alber Saber was sentenced to three years in prison for having exchanged texts and videos via his Facebook messaging service, YouTube and his personal blog, where he expressed religious opinions that were found blasphemous by a court. According to testimony from the lawyer Ahmed Ezzat, published by the information site Madamasr, during the investigation the prosecutor asked a committee of the Ministry of the Interior to connect to the accounts [of the accused] on the social networks and verify the digital data that had been confiscated during the search of his home. The technical report concluded, after consulting private messages exchanged between Saber and his Facebook contacts, that the messages exchanged with his friends contained phrases deemed insulting to Islam. In his case, the authorities were not satisfied to examine the digital content presented in court in relation to the criminal charge brought against him; they also implemented a process to monitor, inspect and evaluate all activity of the accused on social networks, including his private messages exchanged on his Facebook mailbox, in search of new charges”¹³⁹.

Targets of surveillance: opponents, human rights defenders, and LGBTI people

Although the government cites the seriousness of the terrorist threat to justify the monitoring of communications, the use of these technologies is largely directed against connected, militant youth whom the authorities see as having provoked the revolutionary movement of 2011. In the aforementioned request for proposal, the Ministry of the Interior refers to its enemies as “*people who constitute a danger to society*”, “*making use of terms and expressions that contravene the law, general customs, or social uses and relationships*”, “*influencers*” and their followers, “*writers*”, “*users of the social networks*” “*Twitter, Facebook,*

137. <https://www.elwatannews.com/news/details/495659>

138. Ibid.

139. Ezzat, A., “You are being watched!” Egypt’s mass Internet surveillance, *Madamasr*, 29 Sept 2014. <https://www.madamasr.com/en/2014/09/29/opinion/u/you-are-being-watched-egypts-mass-internet-surveillance/>

YouTube, *Instagram*, *Whatsapp*, *Viber*, *forums*, *electronic journals (...) [including] foreigners*¹⁴⁰. On the occasion of the campaign of arrests that led the police to preventively search over 5,000 homes in downtown Cairo in order to prevent mass demonstrations against the regime on the occasion of the fifth anniversary of the revolution, on 25 January 2016, an official source told the Associated Press that such ten-day campaign “was based on surveillance and intelligence gathered over a period of months on pro-democracy militants inside and outside the country, including foreigners”¹⁴¹. According to Ramy Raouf (EIPR): “When you look at the profile of the people monitored, these are not the worst criminals or the most dangerous people; they are just ordinary profiles: activists, artists, lawyers, university professors, educators, even just restaurants and cafés. It can be anyone”¹⁴².

The implementation of the new law against terrorism of August 2015, Article 29 of which prescribes sentences of up to 10 years in prison for the “promotion of terrorist activities” or “[activities] contrary to the national interest” on social networks, led in April 2017 to a ten-year prison sentence for the lawyer Mohamed Ramadan for charges including insulting the president, abuse of social networks, and inciting violence.

Another notable use of electronic surveillance concerns the stalking of LGBTI people during the 2015 launch by the Morality Police of a systematic electronic campaign against those people and against the applications and social networks that they use. Of 232 cases of arrests of LGBTI people documented by EIPR since then, ten were monitored and 129 were entrapped through dating sites¹⁴³.

140. <https://www.elwatannews.com/news/details/495659>

141. <https://apnews.com/6e2bd4fee84d4e61a4472d575776f1d9/militants-attack-checkpoint-egypts-sinai-kill-5-police>

142. Raouf, R., ‘State surveillance and protest: “They try to make people think twice before taking to the streets”’, EIPR, 15 Oct 2017. <https://eipr.org/en/blog/ramy-raouf/2017/10/state-surveillance-and-protest-%E2%80%9Cthey-try-make-people-think-twice-taking>

143. https://eipr.org/sites/default/files/reports/pdf/the_trap-en.pdf

Chapter 2: The enormous increase in French exports of surveillance technologies to Egypt: an unconditional partnership in the name of the “fight against terrorism”

Since late 2013, French authorities have repeatedly approved the sale to Egypt of various types of weapons and surveillance materials, thereby making the choice to ignore the grave human rights violations committed by the Egyptian security forces outlined in the previous section. In the name of the fight against terrorism, France has not only continued to supply equipment capable of serving the repression in Egypt, thereby taking the risk of making itself complicit in serious abuses. It has also made the choice to disregard a number of its European and international human rights obligations.

1. Maintaining exports, especially of equipment used to suppress social movements, despite the repeated violations by Egyptian authorities: a political choice

Under President François Hollande, while Egypt had been experiencing an unprecedented suppression of all dissident activity since 2013, French exports of weapons and surveillance technology to that country exploded. In total contradiction with the European commitment to suspend this type of business due to the grave human rights violations perpetrated by Egyptian security forces, French authorities failed to oppose the delivery of equipment likely to be used for repression in Egypt; on the contrary, they authorized and even encouraged it. This shows that they repeatedly chose to flout the decisions of the European Union on arms exports to Egypt, notably by disregarding the Conclusions of the Foreign Affairs Council of the European Union adopted on 21 August 2013, calling to “suspend export licenses to Egypt for all equipment that could be used for domestic repression” and to “reassess [existing] export licenses for equipment covered by Common Position 2008/944/PESC”¹⁴⁴. That position had been maintained by Laurent Fabius, then Minister of Foreign Affairs, while then Prime Minister Jean-Marc Ayrault claimed to have given “the instruction to scrupulously comply with the unanimously adopted decision of the EU Council”¹⁴⁵.

The maintenance and renewal by the French authorities of export licenses to Egypt for material and equipment covered by the EU Common Position is all the more troubling in that, since the European Union Council enacted the decision to suspend the licenses, several European countries have actually blocked a number of contracts for exports to Egypt. Because of the lack of transparency in the annual report of the EU, which until 2016 did not mention refusal notifications, it is difficult to identify the countries concerned and the equipment targeted¹⁴⁶, even though since 2011 it has been known that Italy, Great Britain, Germany and Denmark had suspended several contracts for arms sales to Egypt¹⁴⁷. In 2011, German authorities denied the company Fritz Werner an extension of its export licenses to Egypt and blocked “a dozen presses and cutting machines [...] that are links in the chain of production of 9 mm cartridges”¹⁴⁸. In 2013, the increase in the suppression of demonstrations led the British government to revoke five export licenses for military equipment to Egypt for fear that the equipment might be used against protesters. Those licenses were for armoured vehicles such as troop transport vehicles and

144. <https://www.sipri.org/sites/default/files/2016-03/EU-Council-conclusions-on-Egypt.pdf>

145. <https://orientxxi.info/magazine/enquete-sur-une-pme-francaise-qui-aide-l-armee-egyptienne-a-charger-ses,2296> [...] *investigation-of-a-small-to-medium French company that helps Egyptian Army to charge its,2296*

146. Nineteenth Annual Report pursuant to Article 8 (2) of the Council Common Position 2008/944 / CFSP laying down common rules for the control of exports of military technology and equipment, *Official Journal of the European Union*, 14 February 2018. <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2018:056:FULL&from=EN>

147. Cf. Flemish Peace Institute. Duquet, N., ‘Business as usual? Assessing the impact of the Arab Spring on European arms export control policies’, Report, p. 15.

148. Ibid. <https://orientxxi.info/magazine/enquete-sur-une-pme-francaise-qui-aide-l-armee-egyptienne-a-charger-ses,2296>

combat infantry vehicles, machine guns, communications equipment for tanks, and vehicle-mounted radio stations and their antenna¹⁴⁹. In 2014, Germany, Poland and Austria refused permission for 5,000 pistols from the Czech firm Česká zbrojovka to be shipped through their territory¹⁵⁰. According to official data, European Union Member States in 2016 denied ten licenses to Egypt and authorized 368. Finally, in January 2017, Italian authorities revoked the export license by the Italian company Aera Spa for a surveillance system meant for the Egyptian Technical Research Department¹⁵¹, after the NGO Privacy International denounced the serious risks of human rights violations entailed by the sale of such software, which was designed to collect, store and analyse data on a large number of people¹⁵².

Ignoring the European decisions, France made the choice to continue and even increase its exports of weapons and surveillance technology to Egypt, in particular of equipment that could be used in the suppression of social movements. Three types of deliveries in particular illustrate this policy orientation:

- The authorisation by French authorities for deliveries of **Renault Trucks Defense armoured vehicles** between 2012 and 2015, despite their demonstrated use in urban repression, in particular their involvement in the bloody dispersal of the Rabaa Al Adawiya sit-in, which left a thousand dead in Cairo on 14 August 2013;
- The authorisation from the Interministerial Commission for the Study of Military Equipment Exports (CIEEMG) for the delivery of **Manurhin cartridge manufacturing machines** a few days after the massacre of over 1000 demonstrators by Egyptian security forces on Rabaa Al Adawiya Square in Cairo, for the reason that these machines were nothing but a link in a chain of weapons manufacturing, even though French customs had decided to block their delivery¹⁵³;
- The ambiguous opinion handed down in 2014 by the French Interministerial Commission of Dual-Use Goods (CIBDU) concerning the license application by the company **Nexa Technologies** for the export of a highly intrusive **surveillance system**. The “not subject” opinion issued by the CIBDU in response to a license application concerning material that actually did fall into the category covered by the official list of dual-use goods under its authority, was tantamount to a de facto authorisation and allowed the material to be delivered to the Egyptian army intelligence services.

1.1. The demonstrated use of Sherpa armoured vehicles in suppressing protests

The role played by Sherpa armoured vehicles supplied by Renault Trucks Defense in the deadly suppression of protests in Egypt since 2013 is emblematic of the risks posed by supplying antiriot weapons to the Egyptian authorities, and the will of the French authorities to maintain these deliveries despite their potential use in suppressing protests. The use of armoured vehicles in the killing of peaceful protesters in Egypt has been demonstrated since the massacre of 28 Coptic protesters by armoured vehicles of the Egyptian army in downtown Cairo (a massacre known as “Maspero”) on 9 October 2011¹⁵⁴. And yet it was only a few days after the Maspero massacre¹⁵⁵ that the first orders by Egypt of Sherpa tactical vehicles (Sherpa Scout and Sherpa MIDS) were registered. These vehicles were reportedly purchased by the Ministry of Defense on behalf of the Ministry of the Interior, to be used in crowd control operations. According to the Stockholm International Peace Research Institute (SIPRI) and the United Nations Register of Conventional Arms, the French government authorized the sale and delivery to Egypt of over 100 Renault Sherpas between 2013 and 2015 (18 Sherpas were delivered in 2012, and 96 in 2013¹⁵⁶) and transferred 77 “tactical vehicles” in 2014 while the repression was being carried out.

The Sherpas are thought to have assisted the police forces and the Army in situations requiring greater manoeuvrability, and both the Army specialized forces units and the new Army and police “rapid deployment units”, created in late 2014, used them. Since 2014 the grey Sherpas of these rapid

149. <https://www.rt.com/news/uk-license-revoke-arms-egypt-355/>

150. « La société Czech Zbrojovka et ses contrats en Egypte », Salut République Tchèque, site officiel, 17 Feb 2014. (*The Czech company, Zbrojovka, and its contracts in Egypt*, ‘Greetings Czech Republic’ – Official Site) <http://www.czech.cz/fr/News/Economie-Commerce/La-societe-Ceska-zbrojovka-et-ses-contrats-d%E2%80%99armem>

151. <http://www.sviluppoeconomico.gov.it/index.php/it/per-i-media/comunicati-stampa/2035887-gia-sospesa-autorizzazione-area-per-esportazione-in-egitto-sistema-monitoraggio-comunicazioni>

152. <https://www.privacyinternational.org/node/1439>

153. <https://orientxxi.info/magazine/enquete-sur-une-pme-francaise-qui-aide-l-armee-egyptienne-a-charger-ses,2296> ([...] *investigation-of-a-small-to-medium French company that helps Egyptian Army to charge its,2296*)

154. <https://www.nytimes.com/2011/10/10/world/middleeast/deadly-protests-over-church-attack-in-cairo.html?pagewanted=all>

155. https://www.youtube.com/watch?v=ZKi_RBB8z50

156. Ibid. <https://www.nytimes.com/2011/10/10/world/middleeast/deadly-protests-over-church-attack-in-cairo.html?pagewanted=all>

deployment units have been seen in the ranks of mobile police patrols and other police patrol units in the streets of the Egyptian capital, as well as among protection brigades deployed in front of official buildings. The mobile patrols of the rapid deployment units are ordinarily deployed at night. It is also at night that one can see many armoured vehicles of the police circulating, driven by heavily armed police officers whose faces are usually covered by balaclavas. These rapid deployment units were created for deployment during complex security operations requiring a rapid response, in particular antiterrorist operations¹⁵⁷. Some military leaders have officially stated that they were not created to respond to protests or gatherings¹⁵⁸. RTD Sherpa vehicles were reportedly also deployed alongside security forces fighting against terrorism in the Sinai¹⁵⁹.



Sherpa MIDS photographed in Cairo on 24&25 January 2014.

There is evidence to indicate, however, that the Sherpas were also used to violently respond to a number of organized protests between 2013 and 2015. One documented case of the use of Sherpa vehicles in the violent suppression of a protest concerns the events of 14 August 2013, when police forces violently dispersed citizens in Rabaa Al Adawiya and Al Nahda. Although witnesses report that there were some armed people among the many protesters, the Interior Ministry took the illegal decision to use maximum force to disperse the protesters. Police forces fired shots that led to the deaths of nearly 1,000 people¹⁶⁰. The tactical measures implemented by the police forces were indiscriminate and disproportionate to the threats of violence or the activities of the protesters. On that occasion, various video recordings and photos show that Sherpa vehicles were deployed on Rabaa Square alongside other police vehicles and armoured engines. Other videos show what strongly resembles a Sherpa vehicle amid protesters before the vehicle was thrown off a bridge leading to the main Street on which the protest was held¹⁶¹.

It appears that Army equipment was deployed to assist the police forces, but that it was not actively involved. The grey Sherpa units deployed were part of the police forces, as is shown by videos in which these grey vehicles can be seen moving alongside police riot control vehicles, and that they were thus most likely part of the equipment of special forces units or combat units of the Central Security Forces (FCS). The main armoured vehicles seen during this operation were Egyptian APCs and Italian IVECOs: Egyptian police had already used these vehicles for many years, whereas the Sherpas had been acquired in 2013. In a video¹⁶² posted online on YouTube by Yqeen Media on 14 August 2013, a Sherpa vehicle

157. <http://www.almasryalyoum.com/news/details/417361>

158. Ibid. <http://www.almasryalyoum.com/news/details/417361>

159. <https://www.bastamag.net/Comment-la-France-coopere-avec-un-regime-qui-pratique-la-torture-traque-les> (*[...] How France Cooperates with a regime that practices torture tracks the ...*)

160. The lowest estimates published by the government show 500 victims on the side of the protesters, and 8 on the police side, for the two sit-ins. This count does not include victims of attacks targeting churches or other acts of violence committed at a distance from both demonstration sites.

161. <http://www.spi0n.com/voiture-de-police-chute-dun-pont-en-egypte/>

162. <https://www.youtube.com/watch?v=KwSq2Rr-2ms>

can be seen at the centre of dispersion operations and police forces that are moving alongside the vehicle and regrouping behind it as soon as gunfire begins to be heard.

During this project, an eyewitness claiming to have identified Sherpa vehicles amid the dispersal of the sit-in in Rabaa Al-Adawiya was interviewed. He is a journalist who was present at the heart of police action, and whose testimony has been quoted by numerous human rights organizations. Sherpa vehicles were relatively new on the Egyptian scene. During protests' dispersals, sand coloured APC vehicles manufactured by Egypt were more commonly used, as were the anti-riot trucks manufactured by IVECO. The journalist stated that he had seen "the new grey police vehicles". He described the scene as follows:

"About three or four armoured vehicles arrived in the street connecting Salah Salem to Nasr Road. At least two of these vehicles were of the new type. The one in front had had rocks thrown at it and turned back. After that, we heard screaming sirens, but I do not know exactly where the sound came from. Then the vehicle moved to the centre of Nasr Road, followed by two vehicles that were behind it. Police officers behind the armoured vehicles threw tear gas grenades. I did not stay very long: I left the area and took shelter behind the buildings".

The witness described only "armoured vehicles of the new type" and compared them to APCs and other anti-riot vehicles that were part of the standard arsenal of Egyptian police forces prior to 2013. When we asked him to compare photographs of Sherpa and Humvee vehicles – which are also used by Egyptian special forces – the journalist immediately identified the Sherpas as the grey vehicles that had been deployed and used to disperse the demonstrations in August 2013.

That incident is the only documented case that we have today of the use of Sherpa vehicles during crowd-control operations that have led to massive human rights violations. The number of victims resulting from the excessive use of force, especially lethal fire, in August 2013, makes these demonstrations the worst incidents in the history of modern Egypt. Since that date, Sherpa vehicles have been spotted in more common crowd-control operations and within the ranks of rapid deployment unit patrols during their missions of protecting the capital and the major cities. Other videos and photos appear to attest to the use of these vehicles in suppressing smaller demonstrations in 2015 and 2016, as well as during anti-terrorism operations in the Sinai region¹⁶³. On 25 January 2014, demonstrations on the anniversary of the revolution of 25 January 2011 left at least 54 people dead (mainly in Cairo),¹⁶⁴ and more than 450 people were arrested by security forces¹⁶⁵. Armoured vehicles were deployed in downtown Cairo to prevent demonstrators from entering Tahrir Square and staging a mass demonstration.

163. <https://milinme.wordpress.com/2013/08/16/african-sherpas/>

164. Cf. Kingsley, P., 'Egypt: protesters killed on anniversary of anti-Mubarak revolt', *The Guardian*, 24 Jan 2014. <https://www.theguardian.com/world/2014/jan/25/egypt-protesters-killed-mubarak-cairo-tahrir-square>

165. Cf. 'Update: 450 people arrested nationwide on January 25 anniversary', *Madamasr*, 25 Janvier 2014. <https://www.madamasr.com/en/2014/01/25/news/u/update-450-people-arrested-nationwide-on-january-25-anniversary/>



A Sherpa Scout photographed on 24 January 2014, Cairo.

Despite the verified presence of Renault Trucks Defense Sherpas (RTD) on the site of the Rabaa massacre and on the occasion of the deadly repression of the demonstrations of 24-25 January 2014 in Cairo, French authorities have continued to authorise the delivery to Egypt of RTD armoured vehicles, which have been used on other occasions by the Egyptian security forces in repressing demonstrations. On 15 April 2016, during protests against the handover by Egyptian authorities of the Tyran and Sanafir islands to Saudi Arabia, Sherpa MIDS were deployed in downtown Cairo, as shown in the photo below.



Sherpa MIDS photographed in Cairo on 15 April 2016, the day of a major mobilization against authorities, on the occasion of the handover by the Egyptian government of the Tyran and Sanafir islands to Saudi Arabia¹⁶⁶.

166. Cf. 'Egypt Saudi Arabia: Police fire tear gas at protests over island deal', BBC, 15 April 2016. <http://www.bbc.co.uk/news/world-middle-east-36054815>



Sherpa MIDS, photographed in Cairo on 15 April 2016 next to the Journalists Syndicate

1.2. Manurhin cartridge manufacturing machines

According to information gathered by journalists, on 12 August 2013, e.g., two days before the massacre perpetrated by Egyptian security forces on Rabaa Al Adawiya Square in Cairo, French customs blocked a cartridge manufacturing machine being delivered by the company Manurhin¹⁶⁷. The equipment seized, the export of which had previously been authorised by the Interministerial Commission for the Study of Military Equipment Exports (CIEEMG), was designed to manufacture cases for 20 mm and 40 mm cartridges, with diameters “similar to those of the rubber bullets and tear gas bombs used by riot police”¹⁶⁸. Nine days later, the Foreign Affairs Council of the European Union unanimously adopted conclusions in which Member States, including France, committed not to deliver to Egypt arms shipments usable for internal repression¹⁶⁹. The next day, the [French] General Secretariat of Defense and National Security (SGDSN) decided that this Manurhin machine in question was merely “an element in a chain of production” and that there was no way “it alone could be used to produce teargas bombs or any other ammunition”¹⁷⁰. Accordingly, SGDSN authorized their shipment to Egypt, and export licenses to that country were thereafter “systematically renewed”, according to the company’s CEO, Rémy Thanberger¹⁷¹.

“Between 2011 and 2015, nearly 80 machines for manufacturing ammunition of various calibres were delivered, to two plants located in Cairo (...). Since then a few dozen more have followed so that, according to our information, two entire production lines were operational by late 2017. Today these lines have the capacity to manufacture from A-Z several million 7.62 mm and 9 mm cartridges. These calibres correspond to ammunition for handguns and Kalashnikovs. In the summer of 2016, Manurhin had also completed its deliveries of machines for manufacturing 20, 23 and 40 mm cartridges, which had been ordered before the 2011 revolution. (...) In 2018, there were still a few contracts in progress. Future machines expected for delivery should enable the Egyptian army to produce 12.7 mm calibres for heavy machine guns (...). The 20 mm calibres are usually loaded in cannons aimed at large targets, such as vehicles. The 23 mm ammunition is better suited to strikes from Soviet airplanes, such as the old Russian “Migs” that the Egyptian Air Force has and the late-model Mig-35 that they recently acquired. Along with the F-16s, these new models have been involved in

167. <https://orientxxi.info/magazine/enquete-sur-une-pme-francaise-qui-aide-l-armee-egyptienne-a-charger-ses,2296> ([...] investigation on a small-medium Frenchy company that helps the Egyptian Army to charge its,2296)

168. Ibid.

169. “Member States [also] agreed to suspend export licenses to Egypt of any equipment which might be used for internal repression and to reassess export licences of equipment covered by Common Position 2008/944/CFSP and review their security assistance with Egypt”. Source: http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151710.pdf

170. <https://orientxxi.info/magazine/enquete-sur-une-pme-francaise-qui-aide-l-armee-egyptienne-a-charger-ses,2296>

171. Ibid.

*bombings in the North Sinai, where security forces are attempting to dislodge jihadist cells embedded in this province bordering the Gaza Strip*¹⁷².

The maintenance and renewal of Manurhin export licenses by the French government despite the proliferation of killings of demonstrators and murders of civilians by Egyptian security forces, especially in the Sinai, is all the more remarkable in that the German authorities have denied Manurhin's German subcontractor, the company Fritz Werner, an extension of its export licenses to Egypt. The two companies circumvented this ban, however: Fritz Werner delivered four other machines not requiring an export permit to Manurhin in Egypt¹⁷³.

1.3. The CEREBRO (Nexa Technologies) surveillance system

In 2014, Paris authorized the sale by Nexa Technologies of a cyber surveillance system called CEREBRO, officially meant for the United Arab Emirates. As the journalist Olivier Tesquet reported in an investigation published by *Télérama*¹⁷⁴, this system was really meant for Egyptian Military Intelligence. Through Nexa Technologies, a group of companies linking France and the United Arab Emirates actually enabled Amesys, a subsidiary of Bull that had already been accused of supplying an intelligence system to the Libyan regime of Muammar Gaddafi, to continue with its sales of interception software, even though the latter was the subject of a judicial investigation by the crimes against humanity division of the Tribunal de grande instance de Paris, in response to a complaint filed by FIDH for "complicity in torture". This group saw Nexa Technologies in France file an application with the French State to export CEREBRO technology to another company established in Dubai, AM Systems, to which the system was officially sold before being delivered to its final user, the Egyptian Directorate of Military Intelligence.

For an expert in the sector who was questioned by the Armaments Observatory in June 2017, this off shoring was allegedly organized with strong encouragement from the French government: *"France hoped that the engineers from Bull [of which Amesys was a subsidiary] would be charged with forming an organisation in Abu Dhabi. They were allowed to install themselves there, so that they would be free to export whatever they wanted, but also to eliminate the traceability of those transfers"*. In other words, this relocation was tantamount to a tacit incentive to "proliferate" in the near East, which gave these inflammatory sales more discretion, on the one hand, and on the other hand enabled France to establish a foothold in Abu Dhabi, which is considered the weapons "supermarket" of the entire region, and to occupy a strategic position there.

172. <https://orientxxi.info/magazine/enquete-sur-une-pme-francaise-qui-aide-l-armee-egyptienne-a-charger-ses,2296> ([...] investigation on a small-medium French company that helps the Egyptian Army to charge its,2296)

173. Ibid.

174. Olivier T., 'Amesys : les tribulations égyptiennes d'un marchand d'armes numériques français', *Télérama.fr*, 22 Dec 2017, <http://www.telerama.fr/monde/amesys-les-tribulations-egyptiennes-d-un-marchand-d-armes-numeriques-francais,160002.php> ('Amesys: Egyptian tribulations of a French digital arms dealer')

Abu Dhabi: a support base for the French armaments industry in the near East¹⁷⁵

The United Arab Emirates in recent years have developed an important industrial defense base with over 80 foreign defense companies installed on their soil, and 10,000 employees. In the arms sector, the Emirates today constitute the commercial centre of the arms that are flooding the near East, at the intersection of two distinct markets: a regional market based on state-of-the-art technologies from Western countries headed for petroleum monarchies, and an international market where newly industrialized countries (India and China), Eastern European countries and Russia speak to “emerging” countries and countries in sub-Saharan Africa. The Abu Dhabi Free Zone, which attracts many foreign companies, recruits many specialists from advanced military technology and former executives of big European weapons companies such as BAE, Leonardo, Raytheon or Ruag. The opening of subsidiaries or co-enterprises (joint ventures) enables these companies to get a foothold, develop subcontractors, and counter the competition of Chinese, Indian and Russian companies, but also, by recruiting underpaid local labour, to save on the maintenance of equipment sold to the Gulf States. The Emirates, emerging protagonists in the arms field, who are not sufficiently autonomous to produce their own airplanes, warships or heavy armoured vehicles, are positioning themselves for the time being in transversal areas that allow them to avoid mastering a product's entire design chain – on-board electronics, intelligence, communications and cyber surveillance – with the ambition of developing autonomy in the area of communication, intelligence, and cyber surveillance technologies. In order to progress in this area, Emirati authorities have surrounded themselves with former CIA agents since 2011.

France comes into play on various levels in this system. Paris and Abu Dhabi have launched a common investment program in the area of high-technology worth €1 billion. A former director of the French company Thales, Luc Vigneron, is the head of one of the largest industrial groups in this free zone. In 2009, the French government installed a military base in Abu Dhabi, which serves as a showcase for French weapons. With €1.3 billion in arms deliveries between 2012 and 2016, the Emirates are among France's top customers in weapon sales. The large weapons companies are also present through their branches on the ground: Thales, Dassault and Sagem. In the “Defense Emirates”, France shares its innovations in communication, surveillance satellites, avionics components or components destined for the navy, night vision goggles and cyber surveillance. The Emirati platform thus allows France to intervene more discreetly in the countries of the near East, by turning to its “advanced industrial base” in the region. The Egyptian economy, among others, has since 2013 been kept afloat by its Gulf creditors (Saudi Arabia and the Emirates) who have, moreover, financed the purchase of the Mistral helicopter carrier, sold in 2015 thanks to Saudi financing, and the recent purchase of two presidential airplanes from Dassault that apparently was made possible by assistance from the United Arab Emirates.

This analysis is supported by the ambiguous opinion issued by the Interministerial Commission of Dual-Use Goods (CIBDU), a supervisory authority under the French Ministry of the Interior created in 2010, to which IP interception technologies have been subject since 2013, in response to an export license application filed by Nexa Technologies in July 2014. According to information reported by Olivier Tesquet, “instead of giving the green light to or blocking the contract, customs [affixed] a seal saying “not subject” on the form. According to in-house terminology, this means that the product exported... is not on the list of dual-use goods¹⁷⁶. This was a legally incomprehensible decision, which allowed Nexa Technologies to deliver CEREBRO to Egypt. Yet, the functions of CEREBRO, based in large part on the system previously provided by Amesys to Libya, corresponds to category five of Annex one of Community Regulation (CE) No. 428/2009 of 5 May 2009, amended by (EU) Regulation No. 388/2012 of Parliament and of the Council dated 19 April 2012, which reiterates the list of assets the export of which outside of the European Union is subject to control.

175. Source : The Armaments Observatory

176. Olivier Tesquet, « Amesys : les tribulations égyptiennes d'un marchand d'armes numériques français », Télérama.fr, 22 décembre 2017. <http://www.telerama.fr/monde/amesys-les-tribulations-egyptiennes-d-un-marchand-d-armes-numeriques-francais,160002.php>

The offer from AM Systems consists of a panoply of surveillance tools encompassing all types of communication. According to the technical documentation of the Emirati company, the system sold by France allows for “real-time surveillance of suspects”: “At any time whatsoever, investigators can follow the activity of their target by entering advanced criteria (email addresses, telephone numbers, and passwords)”¹⁷⁷. Specifically, the system makes it possible to sweep up personal data (emails, text messages, voice...), compiles them into a database, and enables their analysis using keywords. The AM Systems software also makes it possible to extract metadata using the IP address of a computing device, a computer protocol that guarantees their routing. Metadata are the data that provide information on other data. They can understand names and email addresses of the sender, the name and address of Internet pages, and search requests and results. It is therefore possible to find out if a computer has connected to a particular site and when, and what telephone numbers have come into contact.

Although the final recipient’s identity (Egypt, not the Emirates) was clearly concealed, the French authorities’ refusal to consider the Nexa Technologies system a “dual use good”¹⁷⁸ was a violation of their own law: The opinion requiring manufacturers of such technologies to submit an application to the Ministry for the Economy and Finance, if they wish to export them¹⁷⁹.

2. The delivery of complementary equipment and technology to enhance Egypt’s control architecture

2.1. Crowd control technologies

Apart from Sherpa armoured vehicles, Manurhin machines, and the Nexa Technologies surveillance system, much of the military equipment sold by France is oriented toward crowd control during domestic security missions: Patroller drones and Sherpa light armoured vehicles, but also satellites. When interception or location tools are unable to prevent a demonstration, these weapons come into play. They are there to physically restrain people, to prevent gatherings from getting out of control, and to prevent spontaneous movements of several individuals from spreading and ending up overthrowing the regime, as was the case on Tahrir Square in 2011, or as could have been the case on Rabaa Al Adawiya Square in 2013.

This adaptation of military equipment to domestic security missions reflects a strong tendency in the arms market, especially since the start of the Arab Spring in 2011, when weapons manufacturers aligned themselves on the demands of authoritarian regimes in the Middle East. In 2012, a year after the beginning of the “Arab Spring”, the European weapons salon Eurosatory was held. The managers of the salon stated during a press conference, “[The] security market affects 40% of exhibitors and represents €50 billion in 2012. Demand is strong, because police forces in the Middle East have to be equipped with military equipment”¹⁸⁰. In 1996, French manufacturers even created a salon devoted to domestic security equipment, which is held every two years in Villepinte, and they published a brochure on “crowd control”¹⁸¹.

This development addresses, among other things, a major concern of the Egyptian security forces since the revolutionary uprising of 2011: “The collapse of the security apparatus [in Egypt] in 2011 was mainly provoked by attacks on police stations in densely populated areas. The topography of the narrow streets, resembling labyrinths in those areas, makes ground operations risky and costly. [The] Egyptian regime expects a repetition of such attacks, and Sisi himself repeatedly evoked the prospect of a Civil War during his visit to Lisbon in November 2016”, explains the political analyst Maged Mandoor¹⁸².

177. Ibid.

178. Olivier Tesquet, op.cit.

179. Avis aux exportateurs d’équipements d’interception de télécommunications mobiles et de surveillance de communications sur réseau IP, (Notice to exporters of mobile telecommunications interception equipment and IP network communications surveillance), JORF No. 0283 of 6 Dec 2013, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028275273>

180. Eurosatory Salon Press Conference. Paris, 24 May 2012.

181. « Gestion des foules », *Gicat*, 2015.

https://www.gicat.com/wp-content/uploads/2015/11/brochure-gestion-des-foules_FR.pdf (*Crowd Management*)

182. Mandoor, M., ‘The Art of War in Egypt’, Carnegie Endowment for International Peace, 24 Jan 2017. <http://carnegieendowment.org/sada/67781>

The military satellite (AIRBUS THALES)

On 18 April 2016, a contract for the provision of an Airbus-Thales military satellite was signed between France and Egypt for future delivery¹⁸³. The satellite has several civilian and military functions. In addition to space observation, it is an essential tool for urban planning in major cities such as Cairo¹⁸⁴. Its geolocation function is critical for using nuclear weapons and guiding certain aerial strikes. But its main role has to do with military intelligence¹⁸⁵ and border surveillance. These functions are particularly well suited to the military management of the Sinai.

But these specific features also fully address the requirements of “urban crowd control” for which it is undoubtedly the most strategic tool. *“This tool makes it possible to seek out precise details at the level of a “group of individuals”, and it is capable of spotting the beginnings of a crowd in a neighbourhood, because its camera angles encompass the whole panorama – it is a bird’s eye view”,* according to a professional in the field who was interviewed by the Armaments Observatory and FIDH. The latest version of Thales satellites makes it possible to obtain images with a resolution of over 7 kilometres. The proper use of satellite images requires the mobilisation of vast data resources and specialized, well-organised human personnel. Because of this, the military satellite sold by France is entirely capable of providing warning of “social movements”: by producing intelligence and generating alerts in real time, it makes it possible to intervene very rapidly in a crisis: *“The military satellite makes it possible to react to the beginnings of a crowd”,* the professional explained to us. *“It is possible to enter an algorithm into satellite commands that makes it possible to generate a scenario for detection by software: what is happening in Alexandria? Are the crowd movements acting in unison? Are the cells isolated?”* These data (voice and images) are then sent to the command post, which analyses them and forwards them to military or security forces. It is an ideal tool for nipping a social movement or revolutionary uprising in the bud – for security forces that were taken by surprise by the mass movement of 25 January 2011 and that since 2013 have been actively mobilised against the emergence of new social movements.

Patroller Drones (SAFRAN)

A contract for the provision of Patroller drones by Safran, a large French armaments group in the electronics and military aeronautics sectors, was signed with Egypt in September 2015. It contains an important local component, because these drones will be manufactured on location by the AOI-Aircraft Factory, a State-owned Egyptian aeronautics manufacturer¹⁸⁶.

The drone is well suited to the demands of urban warfare: to overcome difficulties of access on the ground, intelligence is gathered from the sky. Drones allow for low-altitude, very slow, even stationary flight, which guarantees good image quality and terrain coverage, making this the preferred tool for intelligence missions. According to the company’s French website, the drone can also be mobilised for other missions: “surveillance of borders, coasts and sensitive sites; humanitarian support and peacekeeping operations; protection of ground forces; support of aero terrestrial intervention measures; artillery guidance; territorial protection; environmental monitoring; etc.” Unlike a satellite, which is subject to spatial dynamics due to its going into orbit, a drone can permanently stick to a given geographical area. It can also be deployed very rapidly on the ground depending on intelligence priorities.

Drones can send images back to the command centre and to soldiers on the ground if they have a digital link on the ground through their vehicles or management tools (tablets, for example). French companies such as Thales offer this type of service. According to a manufacturer in the sector who was interviewed by the Armaments Observatory, enterprises such as the Czech company MESIT or the Swiss company IAT also offer this technology in the Arab world. The Egyptian Sherpa light armoured vehicles could be affected by the introduction of such a system. In fact, according to a specialist in the field interviewed by FIDH, *“the Sherpa intercommunication panel designed for the French army was introduced seven years ago”*.

183. Cabirol, M., ‘Douze Rafale en jeu lors de la venue du président égyptien à Paris’, La Tribune.fr, 20 Oct 2017. <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/douze-rafale-en-jeu-lors-de-la-venue-du-president-egyptien-a-paris-755043.html> (*Egyptian President in Paris: Twelve Rafales in play*)

184. Sada Elbalad. ‘Launch of Egyptian satellite to control borders, chart new cities’, 16 Dec 2017. <http://en.el-balad.com/2360228>

185. A large number of military and civilian communications pass through the satellite network and therefore can be intercepted by the latter.

186. Riahi, A., ‘Drone tactique Patroller : vers des drones armés français?’, Obsarm.org, 27 Jan 2016. <http://obsarm.org/spip.php?article263> (*Tactical Drone Patroller: French move towards armed drones?*)

If the delivery of these apparatuses is confirmed, will the version of the Patroller sold to Egypt be armed? Little information on the future of this contract has been leaked since it was signed. Although the Patroller drone has long been presented as a surveillance drone¹⁸⁷, the talk has changed since the agreement given by Minister Florence Parly on arming of the fleet of drones belonging to the French army in September 2017¹⁸⁸. That same month, the company's CEO, Philippe Petit-Colin, made it clear that customers of the Patroller want it armed¹⁸⁹. On the other hand, according to a weapons manufacturer interviewed by the Armaments Observatory and FIDH, most military drones have a firing function on their electronic management card even if they are officially presented as surveillance drones. Finally, in 2016, the company was considering adding the payload of weapons such as laser-guided rockets and MMP anti-tank missiles (medium-range missile) developed by the French company MBDA¹⁹⁰. Once exported, such a Patroller drone could quite likely be used during combat missions on the ground or for "targeted killings".

Sherpa light armoured vehicles

According to the United Nations Register of Conventional Arms, which relies on French reporting¹⁹¹, Egypt acquired 18 French tactical vehicles in 2012 and 77 in 2014, delivered by the French manufacturer Renault Truck Defense. The contract, signed in 2011, is for Sherpa light Scouts and Sherpa MIDS vehicles, which are particularly dedicated to the urban environment. The Sherpa is smaller in size than the Humvee, another armoured American vehicle used to equip Egyptian military forces. It is suited to the narrow streets in towns of the Arab world. In this sense, it is quite representative of the French – and also global – market for weapons that has been adapting to the urban environment in the Middle East since the late 2000s. According to one advertising brochure, Sherpa MIDS are "*capable of breaching any obstacle whatsoever in an urban environment*"¹⁹².

According to a testimony collected by Amnesty International, the Sherpas deployed on Rabaa Al Adawiya Square in 2013 were equipped with cameras able to zoom to a distance of 8 km¹⁹³. These cameras were offered as an option by the manufacturer Renault Truck Defense. Sherpas equipped with these technologies are troop transport vehicles, but also "forward intelligence posts" deployed on the ground, i.e. necessary links in the control architecture in case of crisis.

2.2. Surveillance technologies

An important part of French technology exports to Egypt concerns surveillance and security systems. These systems, which have been delivered to Egyptian Military Intelligence and the Ministry of the Interior, have received less media attention than heavy weapons. Nevertheless, they are decisive weapons in the hands of the security services in carrying out surveillance of the population and suppression of all dissident activity. Taken together, these systems are equipped with systems of surveillance and recording capabilities that are much more massive and intrusive than the equipment previously available to the security bodies, and significantly reinforce their capacity to spy on the population, making them the framework of a veritable control architecture.

187. On 23 June 2017, Safran's communication services assured the Twitter social network that the Patroller drone would not be armed. <https://twitter.com/SAFRAN/status/878220882065346560>

188. The Huffington Post. 'Minister of the Armed Forces Florence Parly announces that French drones will be armed', 5 Sept 2017. http://www.huffingtonpost.fr/2017/09/05/la-ministre-des-armees-florence-parly-annonce-larmement-des-drones-francais_a_2319715

189. Cabirol, M., 'Safran proposera le drone Patroller (armé ?) à l'export fin 2017 », La Tribune.fr, 7 Sept 2017. <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/safran-proposera-le-drone-patroller-arme-a-l-export-fin-2017-749435.html> ('Safran to offer the Patroller drone [Armed?] for export late 2017')

190. Riahi, A., 'Drone tactique Patroller : vers des drones armés français, 27 Jan 2016. <http://obsarm.org/spip.php?article263> ('Tactical Drone Patroller: French move towards armed drones?')

191. The UN Register of Conventional Arms was established in 1992 by the United Nations General Assembly to ensure greater transparency in conventional arms transfers and to enhance confidence and security among States. It provides for governments to voluntarily submit information on the export and import of seven categories of major weapons: battle tanks, armored combat vehicles, large caliber artillery systems, fighter jets, attack helicopters, warfare (including submarines), missiles and missile launchers (including short-range portable air defense systems). Register website: <http://www.un-register.org/HeavyWeapons/Index.aspx>

192. <https://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjks4b0-ePYAhWFuxQKHqBBv0QFggqMAA&url=http%3A%2F%2Fwww.renault-trucks-defense-group.com%2Fcontent%2Fdownload%2F2724%2F14370%2Fversion%2F3%2Ffile%2FMILIPOL%2BQatar%2BFR.pdf&usq=AOvVaw2UBd31mCKerPdYZAusHi4S>

193. Elmessiry, M., Egypt's Darkest Day, Amnesty International, 14 Aug 2014. <https://www.amnesty.org/en/latest/news/2014/08/egypt-s-darkest-day/>

Individual surveillance, mass interception and intrusion into personal data: CORTEX (ERCOM/SUNERIS)

In addition to CEREBRO, an even more intrusive and massive surveillance software was supplied to Egyptian Military Intelligence by a French company, this time with explicit approval from the competent French authorities, as the Dual-Use Goods Department had issued a favourable opinion on its export. According to reports by the journalist Olivier Tesquet (Télérama)¹⁹⁴, the system included two components (named Cortex and Vortex) and was sold by the company Suneris. The latter is a branch of Ercom (a historic supplier to the French secret services, the General Directorate for External Security – DGSE) in charge of its international exports and is considered by the specialized industry press as “*the technical subcontractor of intelligence services in Mali*”¹⁹⁵. Cortex, which was adapted to an Israeli system, is a voice interception system that reportedly makes it possible to mine telephone communications based on 15 searches installed at various strategic points (the great population centres) throughout Egypt. This technical architecture is called “Vortex”. These searches sweep up and store entire telephone conversations. They are then centralized in a database by a system called CORTEX. Among its many functions: following a target in real time; identifying his or her contacts; going from a name to a Twitter account, or from an IP address to a registration plate, from geolocation in real time to the recurrence of dialled numbers, etc. Starting with a digital interface representing a map, the Ercom system offers spatial geolocation of targets in real-time, using the IP address of the mobile telephone. The system was reportedly sold between January and March 2014 to Egyptian Military Intelligence for between 15 and €20 million, with approval from SBDU. Reportedly it has already been deployed and operational for several months, and it was reinstalled this year. A French engineer is on the ground to supervise its installation.

In what appears to be a sign of likely collaboration between AM Systems and Suneris, and of probable complementarity between the CEREBRO and CORTEX systems, the two companies have installed their respective offices in Egypt in the same building: the military intelligence headquarters in Medinat Nasr Military Base, in Cairo. This complementarity of surveillance solutions sold by France to Egypt directly raises the question of possible coordination between the companies concerned. According to information obtained by FIDH, another major actor is involved in the sale of surveillance and security systems to the Egyptian government: Thales. According to internal information obtained by FIDH, Thales equips the tanks of the Kuwaiti Ministry of the Interior with surveillance systems, including thermal cameras, voice capturing, and analytical databases¹⁹⁶. Thales has also developed systems of “*cryptography and decryption*” that have been offered for sale to Saudi Arabia¹⁹⁷. It is reportedly currently in the process of developing the surveillance system for the new capital desired by Abdel Fattah Al Sisi. On the French manufacturer’s website, in the description of “the secured city” marketed by Thales, the company boasts a system capable (among other things) of “coordinating the actions of security services” in order to fight against “social unrest”: “Thales offers a new global concept of urban security covering the widest possible range of threats: crime, social unrest, terrorist attacks, industrial accidents, and natural disasters. The Thales solution consists of deploying integrated systems to share and gather information from multiple sources. A command-and-control centre systematically analyses all this information and coordinates the security services and emergency responders in case of incident or crisis”¹⁹⁸.

In May 2015, the Egyptian Interior Ministry announced to the press it intended to install a video surveillance system active 24 hours in the streets, on key buildings, roads and public places. If the plan is carried out, it will be one of the most advanced in the Middle East. “The three Egyptian intelligence agencies – Amn al-Dawla of the Ministry of the Interior, the intelligence services and the military intelligence agency – could be involved”¹⁹⁹, stated the researcher Amr Gharbeia (EIPR) on the Middle East Eye website.

194. <http://www.telerama.fr/monde/on-a-encore-trouve-une-societe-francaise-qui-vend-du-materiel-de-surveillance-electronique-a-legypte,n5533721.php> ([...] we found another French company that sells electronic surveillance material to Egypt)

195. « Comment Paris et Tel Aviv se disputent les contrats d’interception en Afrique », Intelligence online, n°795, 29 Nov 2017. (*How Paris and Tel Aviv fight over interception contracts in Africa*) <https://www.intelligenceonline.fr/reenseignement-d-etat/2017/11/29/comment-paris-et-tel-aviv-se-disputent-les-contrats-d-interception-en-afrique,108283688-eve>

196. <http://alqabas.com/464583/>

197. ‘Interceptions: le versant secret du contrat Donas’, Intelligence Online, n°735, 13 May 2015. (*Interceptions: the Dark Side of the Donas Contract*) https://www.intelligenceonline.fr/intelligence-economique_ligne-rouge/2015/05/13/interceptions--le-versant-secret-du-contrat-donas,108073166-art

198. <https://www.thalesgroup.com/en/worldwide/security/news/safe-city>

199. <http://www.middleeasteye.net/in-depth/features/egypt-plan-launch-nationwide-camera-surveillance-system-met-concern-61072872>

Mass surveillance technologies: the Morpho/Idemia database

Centralization of personal data: According to an expert in the field who has worked for the French company Idemia (ex-OT Morpho), in 2012 the latter supplied Egypt with a database that centralizes identity documents possessed by Egyptians: identity cards, voter cards, marriage certificates, death certificates, etc.²⁰⁰. This system enters all these documents into a network and produces a summary document on individuals. It apparently allows the Egyptian administration to verify, through terminals linked to this database, that the carrier of an identity document really is who he says he is. According to this source, this system enables Egyptian authorities to verify data, and to avoid police error and typing errors when registering a person. It also allows them to consolidate their “*intelligence base*” by centralizing the personal information of Egyptian citizens, that is by crosschecking data that previously had been isolated from one another.

Transparency defaults to the type of data actually recorded in the database provided by Idemia to Egypt. In the system provided to Great Britain, the Idemia software aggregates passport data, driver's licenses, bank accounts, voting cards, birth certificates, marriage certificates, and court rulings. In Egypt, there are five types of identity documents: identity cards, birth certificates, marriage certificates, divorce certificates, and death certificates. Identity cards include information such as name, address and religious affiliation²⁰¹.

But apart from identity documents, the Idemia database is capable of accommodating the most “sensitive” personal data, such as emails and telephone numbers²⁰². The functions of the system correspond to category 5BB002 of European Community Regulation (CE) No. 428/2009 of 5 May 2009, amended by EU Regulation No. 388/2012 passed by the European Parliament and the Council on 19 April 2012, which reiterates the list of goods whose export outside the European Union is subject to special regulation²⁰³.

The securing of the Egyptian database is in fact a gateway to the management and analysis of its “content”. The company, long known as Morpho and renamed Idemia on 28 September 2017, has been a world leader in biometrics since 1982. For a long time Morpho was a subsidiary of Safran, before it was purchased in 2017 by Oberthur Technologies. The scope of the company's activities, which range from facial recognition technologies [for use] in criminal cases to airport surveillance, is very broad: “*Morpho is the only company capable of providing turnkey solutions to governments while mastering all the technologies needed to meet the needs of its clients: censuses; multi-biometric systems; electronic documents; chip cards; terminals; identity management systems; and integration services*”, emphasizes the company's presentation brochure²⁰⁴.

Biometric identity cards: In 2014, Idemia also signed a contract worth an estimated €218 million to supply biometric identity cards to a semi-public company created by the Ministry of Defense: the Egyptian Company for Tracking Service and Information Technology (ETIT). According to the company's LinkedIn profile, “[A]ll of the State security agencies are contributing” to its budget²⁰⁵. The contract includes the introduction of biometric control terminals and the provision of electronic identity cards to Egyptians, who are being required to replace the traditional identity cards introduced in the late 1990s. The official purpose of this equipment, according to the French company, is to combat identity theft by recording finger prints.

The establishment of biometric identity cards is not specific to Egypt. In September 2016, Idemia provided such cards to seven countries: Albania, Mauritania, the United Arab Emirates, India, the United

200. Another source, an article published in 2015 by IHS Markit, an American economic information company, claims that the engagement of Morpho in the Egyptian electronic identity card project is due to the French company's preliminary development of a system for securing personal data in 2012. Cf. Derricott, A., ‘e-government Successes in the Middle East and Africa Could Lead to a Range of New Projects’, 29 July 2015, IHS Markit. <https://technology.ihs.com/546595/e-government-successes-in-the-middle-east-and-africa-could-lead-to-a-range-of-new-projects>

201. General Moustafa Radi (Minister of Interior), « Civil Status Organization Presentation For The Cooperation With African Countries », August 2010.

202. « Online transactions security : Identification, strong authentication, digital signature », Cybersecurity Forum Morocco, 2-5 May 2017.

203. <http://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A02009R0428-20140702>

204. [https://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj0MmW_-PYAhWEOxQKHV7WAC4QFggoMAA&url=https%3A%2F%2Fwww.morpho.com%2Ffr%2Ffile%2Fdownload%2Fbrochure-solutions-identite-gouvernement_0.pdf&usq=AOvVaw1RmdT9EZqhJUQXRfwALYvc \(\[...\] brochure solutions identity government\)](https://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj0MmW_-PYAhWEOxQKHV7WAC4QFggoMAA&url=https%3A%2F%2Fwww.morpho.com%2Ffr%2Ffile%2Fdownload%2Fbrochure-solutions-identite-gouvernement_0.pdf&usq=AOvVaw1RmdT9EZqhJUQXRfwALYvc ([...] brochure solutions identity government))

205. LinkedIn Profile: <https://fr.linkedin.com/company/etit-eg>

States, Columbia and Canada. According to Idemia, this system (biometric control terminals and electronic identity cards) is “the best way to guarantee that each identity is associated with a single, unique person”. It thereby serves to allay fears of bank fraud and identity theft. “Thanks to very precise algorithms, background checks and vetting can be carried out in just a few seconds. The operations are automated, so that the experts can concentrate on the cases that require more attention”, explains the promotional brochure²⁰⁶.

Dual use? According to a professional who has worked in this industry, specifically in contact with Safran (the former owner of Morpho), who was contacted by the Armaments Observatory and FIDH, civilian use of the system for sale by Idemia would conceal certain specific functions for monitoring populations: “The connection between the chip in the card and a reader allows information to be sent through the Internet to a terminal. When a citizen scans his or her card, that operation will be recorded in a data file installed on a server that records the individual’s personal data, and the date and time of his/her visit. The information can then be accessed by entering keywords. Because billions of pieces of data cannot be effectively managed, and because most such data is of little use, we plan to develop some scenarios by designing algorithms. These scenarios may focus on the behaviour of designated individuals, or they may designate operating methods [i.e., behaviours common to several individuals]. These algorithms will send alerts if necessary to intelligence operators”. Thus, behind data security lurks a population control infrastructure.

In the press, a Morpho representative provided more details on airport database management: “For a country the size of France, a PNR database” (Passenger Name Record, a system containing passenger data) “includes about 1.5 billion records. From the moment we receive information on a flight, we have to identify the passengers who may represent a threat in a couple of searches. [...] Our algorithm has built-in self-learning mechanisms and produces a low level of false alarms”²⁰⁷. At the same time, the representative specified that Morpho’s product is [also] adapted to other markets such as “Internet banking fraud”²⁰⁸.

To that end the effectiveness of information gathering depends largely on full coverage of cities with electronic terminals capable of authenticating individuals. Since Al Sisi came to power in 2013, we have seen precisely such a proliferation of identity checkpoints in Egypt, i.e. locations where citizens can read their chip-bearing identity card in an electronic terminal. In 2014, the advent of digital identity cards reinforced the monitoring of citizens by administrations and polling stations. That same year, the Egyptian government, represented by the Ministry of Information and Communication Technologies, signed a contract with the bank card manufacturer MasterCard for the purpose of enabling Egyptian citizens to make payments using the electronic identity card introduced by Idemia: “Digital identity cards [...] will be able to be used to pay for certain services, such as taxes, mobile telephone invoices, purchases from vendors, or domestic funds transfers. In addition, salaries and social benefits will be paid electronically, thanks to the card. All transactions will be made in real time and fully secure”²⁰⁹. In August 2014, the authorities also introduced an electronic card guaranteeing access to subsidized bread for the large majority of the population²¹⁰.

In this regard the identity of Morpho’s partner in Egypt for the production of digital identity cards is doubly problematic: the Egyptian Company for Tracking and IT Services (ETIT) is closely linked to State “security” missions. A creation of the Egyptian Ministry of Defence, ETIT is a semi-public company focusing on security technologies, to which “all of the State security agencies contribute”, according to its LinkedIn profile. In 2017, the company announced its development of so-called “portable” electronic and computer systems installable on vehicles that make it possible to collect data on board, in particular

206. Idemia, institutional brochure, September 2017.

207. Meddah, H., ‘Morpho se positionne sur le marché des bases de données passagers’, L’usine digitale, 19 June 2015. <https://www.usine-digitale.fr/article/morpho-se-positionne-sur-le-marche-des-bases-de-donnees-passagers.N336868> (*Morpho figures on the passenger database market*)

208. Ibid. Meddah, H., 19 June 2015.

209. Mastercard.com: ‘Le gouvernement égyptien et MasterCard collaborent pour étendre l’inclusion financière à 54 millions de citoyens du pays grâce au programme de cartes d’identité nationales numériques’, 3 mars 2015. <https://newsroom.mastercard.com/eu/fr/press-releases/le-gouvernement-egyptien-et-mastercard-collaborent-pour-etendre-linclusion-financiere-a-54-millions-de-citoyens-du-pays-grace-au-programme-de-cartes-didentite-nationales-numeriques/> (‘The Egyptian government and MasterCard are working together to expand financial inclusion to 54 million of the country’s citizens thanks to the national digital identity card programme.’)

210. Fauchier Delavigne, M., ‘En Egypte, la révolution se fait d’abord dans les boulangeries’, Le Monde.fr, 15 April 2015. http://www.lemonde.fr/afrique/visuel/2015/04/15/en-egypte-la-revolution-du-pain_4616367_3212.html#8r64OxXkylzZHipt.99 (*In Egypt, the revolution begins in the bakeries!*)

routes and spatial geolocation²¹¹, in real time using an interactive map²¹². These modules also serve to remotely control vehicles.

These contracts came at a time when the Al Sisi regime had actively embarked upon a vast operation of personal data collection, without a single regulation to guarantee that the security services would not use this software to illegally monitor Egyptian citizens or to prepare cases for trial.

To what extent can the data aggregated by the security services on Egyptian citizens mesh with the solution provided by Idemia, which not only compiles data from identity documents but can potentially include other sources? In circumstances such as these, neither Idemia nor the French State can ignore the risks inherent in a system that makes possible the mass collection of personal data. Basic reconnaissance or surveillance algorithms of the Morpho type are developed on the basis of human intelligence: they can just as easily target the operating methods of “armed groups in the Sinai”, for example, as a list of people targeted by surveillance or the “habits” of certain Egyptian citizens. On the other hand, if the deployment of electronic terminals is sufficiently widespread, Morpho could represent an ominous tool for locating Egyptian citizens in real time. This fear is all the greater since Morpho has been continually expanding its reach: in January 2018 the company announced that it had purchased Otono Networks, which is working on an electronic SIM card technology²¹³.

On the other hand – and this is indicative of a disturbing normalisation of the sector – some French manufacturers appear to be competing in race toward exploiting citizens’ personal data. Some of Idemia/Morpho’s French competitors, such as Deveryware, which was present at the French Milipol Salon dedicated to homeland security, no longer bother to hide the rationale for their activities. In its press kit, the company informs us, *“The digitisation of systems obscures a growing number of geolocation sources and a multiplicity of sensors capable of providing these ‘who’s, wheres and whens’. For over a dozen years now, investigators have been able to detect the location of portable telephones from electronic communication operators and GPS beacons. But gradually other geolocation techniques have emerged, such as automatic license plate readers; facial recognition on video surveillance; PNR; the semantic analysis of [audio] transcripts; communicating vehicles and other communicating objects; biometric access; the use of payment orders; transportation; the checking of identity documents, payment documents and credit application documents; e-commerce; digital identity; and more. The problem for engineers and investigators therefore comes down to extracting from this sizable mass of geo-located data the ones that will provide them with a signal that is useful in the conduct of their mission. One of the solutions developed, which is central to this research, serves to supply, operate and monitor geolocation devices and to call attention to, process and analyse a large amount of data coming from multiple sources”*²¹⁴.

Voter authentication terminals: Idemia also interfered in the management of the electoral process in Egypt during the 2014 presidential election. Its job was to set up voter authentication terminals: to that end, 2,300 tablets were used for a panel of 60,000 voters²¹⁵. The CEO of the group stated that the company was responding to the need to “move democracy forward”²¹⁶. In fact, other states such as Nigeria, Mali, Kenya and the Côte d’Ivoire have benefited from biometric voting terminals. The role played by Idemia in these different countries is invariably subject to dispute. In Kenya, 45,000 electronic voting terminals were set up throughout the country during the last presidential election in August 2017. The Supreme Court subsequently invalidated the election for irregularities in the transmission of the results. The opposition accused Idemia of having overlooked *“tampering with the election results”*²¹⁷. The company, which had carried out an audit of its system with the help of an outside operator, called these

211. ‘NTI agrees with ETIT to locally manufacture tracking devices’, Daily News Egypt, 17 Jan 2017. <https://dailynewsegypt.com/2017/01/17/nti-agrees-etit-locally-manufacture-tracking-devices/>

212. Official website : <http://www.etit-eg.com/service.html?#Vehicle>

213. ‘Première acquisition pour Idemia, ex OT-Morpho’, Vipress.net. <http://www.vipress.net/premiere-acquisition-idemia-ex-ot-morpho/> (*First acquisition for Idemia, former OT-Morpho*)

214. Deveryware, press report, 2017-2018, p.11-12.

215. Safran-Morpho Brochure. ‘Solution d’enregistrement Morpho : le guichet unique pour un enregistrement efficace et rapide de la population’. (*Morpho registration solution: “one-stop shopping” for efficient and rapid registration of the population.*)

216. Khiri, Y., and Thienot, D., ‘Élection au Mali: un “marché de la démocratie” très lucratif’, L’express.com, 9 Aug 2013. https://www.lexpress.fr/actualite/monde/afrique/election-au-mali-un-marche-de-la-democratie-tres-lucratif_1272456.html (*Election in Mali: a highly lucrative market of democracy*)

217. Since that time, the August 8th election has been validated by the Supreme Court of Kenya. Cf. http://www.lemonde.fr/international/article/2017/11/20/la-cour-supreme-du-kenya-valide-la-reelection-d-uhuru-kenyatta_5217442_3210.html#JFACHeqyMOY4eJ.99 ([...] *the supreme court of Kenya validates the reelection of Uhuru Kenyatta.*)

criticisms unfounded²¹⁸. In 2010, Morpho was awarded the contract for electronic voter registration in Côte d'Ivoire²¹⁹. Various technical problems associated with the tablets provided by Morpho were encountered during the 2015 presidential election²²⁰. There again, Morpho was suspected of non-neutrality, owing among other things to the profile of its Ivorian representative, whom the IMF and the World Bank accused of corruption²²¹.

By authorizing the sale of the CEREBRO and CORTEX systems, France equipped the Al Sisi regime with additional technologies allowing for the massive surveillance of communications content (CORTEX/VORTEX), as well as the implementation of targeted solutions for the interception and storage of personal data and metadata, and for computer hijacking (CEREBRO). But in so doing, it also provided Egyptian authorities with the means to introduce an integrated system serving to connect these data with one another and to monitor people in real time (using interactive cards allowing targets to be geolocated by electronic surveillance). The sale by Idemia of a database with no established limits permitting the aggregation of various personal data, as well as identity and biometric terminal solutions, seems consistent with the construction of a vast system of integrated surveillance by the regime of Abdel Fattah Al Sisi.

These imports are perfectly in keeping with the stated and defended goals of the Egyptian security agencies, and the policies and efforts they have implemented since 2013 to institute total surveillance of individuals in order to prevent the appearance of social movements. In this regard they particularly strengthen the capacity of these agencies to cause harm. Beyond the repression of peaceful activists and militants, the technologies sold to Egypt, in particular those of Suneris and the Idemia database, effectively gave authorities the means to implement mass surveillance on an unprecedented scale, enabling them to interfere in the formation of social movements and social interactions, and to keep records on individuals and their activities and opinions. Furthermore, the absence of political or civil oversight over the activities of the intelligence agencies, as well as the security services' hold of the judiciary, prevent adequate control and oversight over the use of these technologies in Egypt.

In view of how the end users of these technologies (Egyptian Military Intelligence and security agencies) have been using surveillance and security software acquired from European and American companies since 2011, specifically increasing repression since 2013, the French State and the companies involved must have been aware of the extremely great risk of criminal use of these technologies by their Egyptian clients, and of grave human rights violations in consequence.

218. L'entreprise OT-Morpho répond aux accusations de l'opposition kenyane, RFI.fr, 16 Sept 2017. (*The OT-Morpho company responds to accusations made by the Kenyan opposition.*)

219. Mieu, B., 'Présidentielle en Côte d'Ivoire : les tablettes de la discorde', 28 Oct 2015. (*Presidential elections in Ivory Coast: the slates of disaccord*)
<http://www.jeuneafrique.com/275165/politique/presidentielle-cote-divoire-tablettes-de-discorde/>

220. Sidi Kagnassi, l'étrange "Monsieur Morpho-Safran" d'Afrique de l'Ouest, Mondafrique.com, 12 June 2015. <https://mondafrique.com/sidi-kagnassi-letrange-monsieur-morpho-safran-dafrique-de-louest/> (*Sidi Kagnassi, the strange "Mr. Morpho-Safran" of West Africa*)

221. Santopinto, F., 'Élections ivoiriennes de 2015 : l'UE aurait-elle dû observer le scrutin ?' Grip.org, 13 Oct 2015. https://www.grip.org/sites/grip.org/files/NOTES_ANALYSE/2015/NA_2015-10-13_FR_F-SANTOPINTO.pdf (*Elections in Ivory Coast: should the EU have "observed" the voting?*)

Chapter 3: Legal obligations of companies and of the French State, and potential liability for the perpetration by the Egyptian regime of grave human rights violations

1. France's unconditional political and diplomatic support for Egypt

The French government and the competent authorities should have suspended the licenses for and delivery of the military equipment and dual-use goods provided by the mentioned companies, for a number of reasons including: the prevailing suppression of all dissidence in Egypt, in particular the ongoing, documented use of lethal force against civilians and peaceful demonstrators by security forces since 2011, and particularly since the military coup of July 2013; the attested presence of French armoured vehicles and the use of weapons similar to those – whose delivery continues to be authorised by French authorities – in various repressive police and military operations in Egypt; and the potential use of surveillance software provided by France to Egyptian security agencies in the perpetration of grave human rights violations.

The French government's persistence in maintaining export licenses for these controversial weapons and technologies, even while several European countries, including Germany, were suspending exports of similar materials, was only possible by exploiting shortcomings and gaps in the laws governing weapons sales. In one case, for example, CIBDU issued a cryptic opinion that made possible the delivery to Egypt of extremely intrusive surveillance technology by Nexa technologies. In another, CIEEMG used a misleading argument to justify renewing licenses for cartridge manufacturing machines manufactured by Manurhin, although French customs had blocked their delivery to Egypt. In light of this, the historical background of exports to Egypt of military equipment and dual-use goods potentially used by Egyptian security forces to suppress social movements and all forms of dissent in general is indicative of the political nature of the process of granting and renewing licenses. It confirms the political and strategic commitment of the French authorities alongside the Egyptian security forces, officially in the name of the "fight against terrorism". It may also prove risky and entail liability for French companies and authorities alike, at a time when deadly repression, accompanied by very grave human rights violations, are still rampant in Egypt.

The enormous and unexpected military contracts²²² signed with Egypt since 2013 are consistent with the new French government policy, instigated by Jean-Yves Le Drian, the Minister of Defense under François Hollande's presidency and now Minister of Foreign Affairs in Emmanuel Macron's administration, in which the ministries of Foreign Affairs and Defense have prioritised foreign trade²²³. Jean-Yves Le Drian, who presented himself as "the arms export minister", "set up a defense export committee at the Breanne Hotel to harmonize the strategic positions of the government with the commercial vision of the manufacturers. Coupled with numerous ministerial trips abroad²²⁴, this method proved very effective and resulted in an explosion of sales of military equipment in the Arab countries (Rafale in Qatar and Egypt; Mistral in Egypt; helicopters to Kuwait, etc.)"²²⁵. These contracts thus mark the beginning of the French government's unflinching political support to the new Egyptian military regime. The presidential elections of May 2014, which brought Abdel Fattah Al-Sisi to power

222. Until that time, the Rafale was reputed to be unsellable. Cf. <http://www.iris-france.org/54602-le-rafale-vendu-a-legypte-une-bouffee-doxygene-pour-dassault-mais-aussi-pour-letat/>

223. Cf. Chagnollaud J.-P., 'Une politique à l'épreuve de ses contradictions', *Confluences Méditerranée*, 2016/1, n°96, p9-12. (*A policy put to the test of its contradictions.*)

224. Jean-Yves Le Drian visited Egypt eight times as François Hollande's Minister of Defense.

225. Cf. Roux, D., IRIS, 'La Politique arabe de François Hollande'. <http://www.iris-france.org/83753-la-politique-arabe-de-francois-hollande/> Under the presidential mandate of François Hollande, diplomacy was viewed as a tool meant to serve France's foreign trade. In 2014, le Quai d'Orsay [or the Ministry of Foreign Affairs] officially took on the title of Ministry of Foreign Affairs and Development, and opened a Business and International Economy Department. Foreign trade figures became a yardstick of ministry effectiveness, and economic diplomacy, a stated priority.

after an electoral campaign during which the opposition was largely silenced, were deemed by Paris to be “credible and transparent, enabling all to participate and satisfying international norms”²²⁶. In September 2014, when the NGO Human Rights Watch had just published a damning report on the premeditated murder of a thousand demonstrators in Cairo by Egyptian security forces a month earlier, Jean Yves Le Drian (who maintains a notoriously excellent relationship with Abdel Fattah Al Sisi) boasted before the National Assembly of “a high quality relationship”²²⁷, and an internal government source confirmed to The Tribune, “A new team will work [based] first and foremost on “political” and “rational” criteria”²²⁸. This was the start of [France’s] uninterrupted diplomatic support to the military-dominated regime. In exchange for these goods and loyal services, Jean Yves Le Drian was decorated in February 2017 by Abdel Fattah Al Sisi for “an unprecedented surge” in military cooperation between the two countries, to quote the office of the Egyptian president²²⁹.

The unheard-of political support given by French authorities to the Al Sisi regime since 2013 and the remarkable diplomatic relationship forged with him by French authorities surrounding these arms sales have resulted in anaemic public condemnation of the grave human rights violations occurring in Egypt. During the official visit to Paris of Abdel Fattah Al Sisi in October 2017, French President Emmanuel Macron declared before the press that he “had no lesson to teach” his Egyptian counterpart about human rights, thus explicitly defending his refusal to publicly broach the question of the grave violations perpetrated by Egyptian authorities. President Al-Sisi was able on that occasion to insist, in an interview with the station France 24, “[T]here are no political prisoners in Egypt”²³⁰. Simultaneously with these public interventions, diplomatic steps were undertaken to request the liberation of certain human rights defenders or the lifting of proceedings against them. As a result of those steps, two defenders were released, while others remain under prosecution or arrest, continuing to face diverse charges, in violation of international rights treaties ratified by Egypt.

The weakness of the public discourse and steps taken by French authorities on the question of human rights in Egypt runs parallel to the reaction of the U.S. administration, which, facing the murderous development of the policy pursued by Field Marshal Al Sisi, decided several times since 2013 to suspend delivery of part of its annual military aid²³¹ to Egypt²³². A few months after the military coup conducted by the army against Mohamed Morsi in July 2013, the United States thus suspended a USD 260 million transfer to Egypt and several deliveries of military equipment, including F-16 fighter planes, M1A1 tank spare parts, Harpoon missiles, Apache helicopters and technology transfers, and reallocated some of their aid for other purposes. In April 2017, during an official visit by Al Sisi to Washington, the American administration took the opportunity to urge the Egyptian president not to sign the decree implementing an extremely repressive NGO law: a priority issue in Washington, according to the Tahrir Institute for Middle East Policy, a U.S. think tank²³³. In August 2017, over USD 200 million in military aid was retained and reprogrammed by the U.S. administration due to “serious concerns” about human rights violations by the Egyptian government²³⁴. Although these measures were symbolic in comparison with the total amount of military and economic aid dispensed to Egypt by the United States, they constituted a historic precedent in the special relationship maintained by the two countries since 1979.

226. Cabirol, M., ‘Exportation d’armes (3/4): l’Égypte, la divine surprise en 2014’, La Tribune, 16 Oct 2014. Cf. <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/20141016tribc7ee06519/exportation-d-armes-3-4-l-egypte-la-divine-surprise-en-2014.html> (*Arms exports (3/4): Egypt, the divine surprise of 2014.*)

227. Hearing of Jean-Yves Le Drian before the National Assembly, National Defense Commission and the Armed Forces, Wednesday 17 Sept 2014. Cf. <http://www.assemblee-nationale.fr/14/cr-cdef/13-14/c1314066.asp>

228. Ibid., Cabirol, M., 16 Oct 2014.

229. Cf. ‘Le Drian décoré par le président égyptien’, Le Figaro, 28 Feb 2017. (*Le Drian officially honored by the Egyptian president.*) Cf. <http://www.lefigaro.fr/flash-actu/2017/02/28/97001-20170228FILWWW00174-le-drian-decore-par-le-president-egyptien.php>

230. <http://www.france24.com/fr/20171024-entretien-al-sissi-egypte-terrorisme-droits-homme-libye> ([...] *interview Al Sisi Egypt Terrorism Human Rights Libya*)

231. Since 1979, Egypt has been receiving American foreign aid in an average amount of \$1.6 billion per year, of which \$1.3 billion goes to the army.

232. <https://www.reuters.com/article/us-usa-egypt-exclusive/exclusive-u-s-to-withhold-up-to-290-million-in-egypt-aid-idUSKCN1B225F>

233. ‘The American officials proposed to Sisi to not sign the law when the Egyptian president visited Washington in April’, indicated Okail. ‘I know that it was on top of the to-do list for that day, and this was emphasized at several meetings’, she declared. ‘And they were surprised when, despite everything, he went ahead and got the law passed’. Cf. <http://foreignpolicy.com/2017/12/13/egypts-civil-society-is-on-life-support/>

234. Cf. <https://edition.cnn.com/2017/08/22/politics/us-egypt-aid-denied-democracy/index.html>

2. France's oversight of arms sales is inadequate in terms of its international obligations

With respect to international law, the French State, like all others, has a general obligation to enforce human rights. The obligation imposed on states to respect human rights is guaranteed by many pacts, treaties and charters of international law: the Universal Declaration of Human Rights (1948); the European Convention on Human Rights (1950); the Geneva conventions (1949); the International Pact on Civil and Political Rights (1966); and the International Pact on Economic, Social and Cultural Rights (1966) constitute binding legal frameworks. They stipulate states' obligation to adapt their domestic laws to guarantee respect for human rights, put a stop to ongoing violations, and prosecute and punish the perpetrators of these violations. The French State has also undertaken international and European commitments specific to the export of weapons and so-called "dual-use" goods and is also obliged to respect these obligations vis-à-vis the actions of companies domiciled on its territory. Yet the green light continually given since 2013 by French authorities to shipments to Egypt of military equipment and surveillance technologies capable of contributing to the perpetration of serious abuses, and therefore in violation of several legal obligations of the French State, demonstrates the limits of the French system of oversight over these exports and the importance of changing it to prevent such violations in the future.

2.1. Specific obligations of the French State with respect to arms transfers

2.1.1. *The Arms Trade Treaty (ATT)*

Because France is a party to the Arms Trade Treaty (ATT), it has the obligation to implement this treaty in good faith, in accordance with its subject matter and purpose. As a Member State, France must, under Article 7 of this treaty, carry out an assessment of all conventional arms exports, ammunition, or associated parts and components in order to determine whether that equipment risks being used to commit or facilitate grave violations of international law relative to human rights or international humanitarian law, or to commit or facilitate any act constituting an offense with regard to the international conventions and protocols on terrorism or organized transnational criminality to which the exporting State is a party. France must also assess the risk of any conventional arms covered by the treaty being diverted. The exporter must consider adopting effective measures to reduce the risks of the negative consequences described in Article 7.1. **When it has been established that there is a substantial risk of negative consequences, no export authorisation must be given.**

The transactions described in this report were conducted after the July 2013 coup, when a widespread repression of all dissent was already well underway in Egypt, a context that France knowingly chose to ignore in authorizing these exports. In so doing, France failed in its obligations as a party to the ATT, in particular Article 6, which prohibits granting any export decision when there is knowledge of a risk that the arms in question could be used in attacks against civilians and in violations of international humanitarian law. Renault Sherpa vehicles in particular were involved, according to one witness statement, in attacks against civilians on Rabaa Al Adawiya Square in 2013, which did nothing to prevent new deliveries of the same equipment beginning in 2014.

2.1.2. *The European Union Council's Common Position 2008/944/PESC defining [common] rules governing control of exports of military technology and equipment*²³⁵

The Common Position adopted on 8 December 2008 under the French presidency of the European Union established the legally binding character for EU Member States of the "Code of Conduct for Arms Exports" adopted in 1998 by the EU ministers of foreign affairs. In order to harmonize member States' arms exports policies and ensure their transparency and responsibility in the matter, the Common Position obliges States to subordinate their arms export authorisations to eight decision-making criteria: the recipient's compliance with its international commitments; respect for human rights; the domestic situation in the country of final destination and the risk of aggravation of tensions in that country; preservation of regional peace, security and stability; the national security of Member States and of allied or friendly States; the behaviour of the purchasing country with respect to the international community, especially its attitude toward terrorism; the existence of a risk of diversion of the material within the purchasing country or of its export under undesirable conditions; compatibility of the arms exports with the technical and economic capabilities of the recipient country.

235. eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:fr:PDF

The second criterion of the Common Position specifically requires Member States to assess the attitude of the recipient country with respect to the principles established by international instruments concerning respect for human rights, and to deny export authorisation if there is an obvious risk that the equipment whose export is contemplated could be used in domestic repression. In view of the extent and seriousness of the human rights violations perpetrated in Egypt since July 2013, France should have denied export authorisation for the military equipment and surveillance technologies described in this report, which were likely to serve the well-known and documented repressive practices of the Egyptian security forces. The Common Position, which makes arms exports contingent on compliance with criteria such as the domestic situation of the country of destination (criterion three) and respect for human rights (criterion two), was not complied with during the transfer of Renault Sherpa light vehicles, Patroller drones, and the Airbus-Thales satellite, among other things.

In order to harmonise Member States' policies in this matter, the Common Position also requires them to share and explain their respective decisions in cases when they refuse to issue arms export licenses. It prescribes a mechanism of consultation and notification of denials among the States, including a specific exchange when a State considers authorising a transaction that is "essentially identical" to one that has been denied by another Member State during the three preceding years. France has evidently failed to comply with this obligation, in particular by repeatedly renewing export licenses to Manurhin when Germany at the same time had suspended transfers of equipment in the same category to Egypt from a company domiciled on its territory (see preceding chapter).

2.1.3 Decisions of the Council of the European Union and the European Parliament on arms exports to Egypt

In the wake of the massacre of about 1,000 demonstrators during the bloody dispersal of two sit-ins in Cairo by security forces on 14 August 2013 (see Chapter 2), the Foreign Affairs Council conclusions of 21 August 2013 state that "Member States [also] agreed to suspend export licenses to Egypt of any equipment which might be used for internal repression and to reassess export licences of equipment covered by Common Position 2008/944/CFSP and review their security assistance with Egypt"²³⁶.

According to the Group for Research and Information on Peace and Security (GRIP), the targeted equipment refers to the European Union Common List of Military Equipment, but also to a list of equipment drawn up on the occasion "of sanctions imposed on Uzbekistan in 2005, then reused for the Côte d'Ivoire in November 2010; Libya in March 2011; Syria and Belarus in May and June of the same year; and Iran in March 2012"²³⁷. This list targets goods that are not on the common list of military equipment but that could be used in the context of repression²³⁸, although it omits many types of equipment that could be used for purposes of repression, such as troop transport vehicles. It does include:

- 1.1. Firearms not on the EU Common Military List;
- 1.2. Ammunition specially developed for the firearms listed in point 1.1 and components thereof;
- 1.3. Firearms not controlled under the EU common list;
2. Bombs and grenades not on the EU common list;
- 3.1. Vehicles equipped with water cannon and vehicles specially designed or modified for crowd control;
- 3.2. Vehicles specially designed or modified to be electrified in order to repel assailants;
- 3.3. Vehicles specially designed or modified to remove barricades, including construction material with ballistic protection;
- 3.4. Vehicles specially designed for transporting or transferring prisoners and/or detainees;
- 3.5. Vehicles specially designed to deploy mobile barriers;
- 3.6. Components of the vehicles listed in points 3.1 to 3.5 that are specially designed for riot control;
4. Explosives and related equipment not on the EU common list.

A year later, in July 2014, the European Parliament called for an embargo on the export of surveillance technologies to Egypt. On 15 January 2015 it adopted a resolution on Egypt calling for a European embargo on exports to that country of "intrusion and surveillance technologies capable of being used

236. http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151710.pdf

237. Jacqmin, D., 'Égypte : "embargo" et armes de répression interne', *Grip*, 26 Oct 2016. http://www.grip.org/sites/grip.org/files/NOTES_ANALYSE/2016/na_2016-10-26_fr_d-jacqmin.pdf (Egypt: "embargo" and arms of internal repression.)

238. 'Loopholes aplenty in EU "arms ban" on Egypt', *EU observer*, 2 Sept 2013. <https://euobserver.com/foreign/121277>

to spy on and repress citizens”²³⁹. The European Parliament also reiterated on that occasion its appeal for “an embargo on exports of security equipment and military aid that could be used to suppress peaceful demonstrations or against European Union strategic and security interests, in application of the Wassenaar Arrangement”²⁴⁰. On 10 March 2016, a resolution adopted by the European Parliament following the murder of Italian Ph.D. student Giulio Regeni “urgently request[ed] the Member States to fully respect the “Foreign Affairs Council conclusions of August 2013 on exports of technology and military equipment and on cooperation in the area of security”, and “request[ed] the suspension of exports of surveillance equipment if evidence attests that they will be used to commit human rights violations”²⁴¹. Finally, on 8 February 2018, a European Parliament resolution on executions in Egypt “calls on the EU to implement in full its export controls vis-à-vis Egypt, in particular with regard to goods that could be used for torture or capital punishment”²⁴². These European Parliament positions, while not legally binding, constitute guidelines that France has chosen not to follow since 2013, as seen in chapter 2.

2.2. Specific obligations of the French State concerning exports of “dual-use goods”

According to the French government’s official definition, “a ‘dual-use good’ is a product or service ‘likely to have either a civilian or a military use’, i.e., one meant primarily for civilian use, in industry for example, but also capable of being used to develop arms or military equipment”²⁴³. Exports of such equipment or services are not banned a priori for companies (as is the case for conventional weapons). The Arms Trade Treaty that entered into force in 2014 and the European Union Common Position on Arms Exports of 2008 do not apply to dual-use goods. But exports of dual-use goods are nevertheless subject to binding control, generally in the form of a license obligation.

The control of exports of dual-use goods and technologies to countries outside the European Union has its legal basis in a Community Regulation (EC Regulation number 428/2009 of 5 May 2009, as amended). This regulation cross-references the Wassenaar Arrangement, among others, to which France is a party (see below). The list established by this regulation of goods and technologies considered “dual-use” is regularly updated. The binding measures taken against countries that are subject to import or export restrictions are published on the official customs’ website.

2.2.1. The Wassenaar Arrangement

France is a signatory to the Wassenaar Arrangement (1996), which today includes forty-one States. While export control remains a sovereign function of each Participating State, the informal legal nature of this arrangement rests on a political agreement to control exports of conventional arms and dual-use goods and technologies used in their manufacture. Its purpose is to promote “transparency and greater responsibility in transfers of arms and dual-use goods in order to prevent destabilizing accumulations”, i.e., to prevent transfers of arms and dual-use technologies from undermining international stability.

The Signatory States to the Wassenaar Arrangement have agreed to control, each under its own national laws, exports of the goods that are on the Arrangement’s list of dual-use goods, and to transparently report exports of dual-use goods deemed sensitive²⁴⁴ and denials to transfer dual-use goods in general. The Member States are also required to hold consultations and to exchange information in their possession concerning transfers of very sensitive dual-use goods and technology.

239. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0012+0+DOC+XML+V0//EN&language=EN> (See article 23)

240. *Ibid.*, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0012+0+DOC+XML+V0//EN&language=EN>

241. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0084+0+DOC+PDF+V0//FR>

242. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0035+0+DOC+XML+V0//EN&language=EN>

243. ‘Some dual-use goods or technology are likely to have conventional military use; others may be used for weapons of mass destruction: nuclear, chemical or biological weapons, or missiles capable of carrying such weapons’. Cf. <https://www.diplomatie.gouv.fr/fr/politique-etrangere-de-la-france/desarmement-et-non-proliferation/la-france-et-le-controle-des-exportations-sensibles/article/controle-des-biens-et-technologies-sensibles-a-double-usage>

244. Depending on the evolution of the technology, the group of experts updates the checklists each year. The Dual-Use List of the Wassenaar Arrangement has been transposed into the EU Regulation on the Control of Exports of Dual-Use Goods and Technologies (Regulation (CE) 428/2009 modified by the Regulations N° 1232/2011 of the European Parliament and of the Council of 16 Nov 2011; N° 388/2012 of the European Parliament and of the Council of 19 April 2012 and N° 599/2014 of the European Parliament and of the Council of 16 April 2014.)

The list of “dual-use” goods and technologies established by this regulation is regularly updated. It includes software (4.d.4) and surveillance equipment (5.8.1.j). The Wassenaar Arrangement specifically targets systems that make it possible to extract IP metadata and content linked to Internet applications (voice, video, messages and attachments), systems that model the social network of an individual or group of individuals, and telecommunications inspection systems. Cryptography equipment (5.a.2)²⁴⁵ of the biometric type is also on the list. While the list does not include biometric data analysis systems, it does specify a certain number of technical functions: “authentication”; “digital signature”; “data integrity”; “non-repudiation”²⁴⁶; “data rights management”; “data encryption and decoding in the field of entertainment, television recordings or recordings related to patients in the medical sector”.

Yet several types of surveillance equipment and technologies supplied to Egypt by French companies (see Chapter 2) fall into the category of dual-use goods and should therefore have been subject to more controls. In addition, the French system of control remains very opaque with respect to exports of dual-use goods by companies. The report on arms exports includes no information on dual-use goods. The authority that issues export licenses for dual-use goods is the Dual-Use Goods Department (SBDU) of the Ministry of the Economy, Industry and Digital Sector. The ministries involved in the sector in question give their opinion in an advisory capacity. The French Interministerial Commission of Dual-Use Goods (CIBDU), created by Decree No. 2010-294 of 18 March 2010, examines the most sensitive requests²⁴⁷. CIBDU is composed of representatives of the [French] General Secretariat of Defense and National Security, and the ministries of the Interior, Defense, Industry, Energy, Foreign Trade, Research, Health, Agriculture, and Customs. Approval from the Ministry of Foreign Affairs is required²⁴⁸.

2.2.2. The plan to strengthen European regulation related to dual-use goods’ exports, including surveillance technologies

Cyber surveillance technologies have been a subject of increasing attention in the European Union since 2009, against a background in which malware has proliferated and surveillance and interception technologies have been used repeatedly by many States to target journalists, activists and human rights defenders²⁴⁹. To counter these threats, the European Parliament on 17 January 2018 voted by a large majority to reform the community system of control of exports of dual-use goods on the basis of a draft law drawn up by the European Commission²⁵⁰. This draft law must be the subject of a consultation between the Commission, Parliament and the Council of Europe. Designed to prevent exports of potentially malicious software (especially systems for intercepting telephone calls, for hijacking computers or for making it possible to circumvent passwords, which could be used by foreign States to repress political opponents or activists) to States that violate international legislation on human rights, it stipulates that Member States must deny license applications if the export of a surveillance technology may lead to grave human rights violations. Authorities must examine the legal framework governing the use of all surveillance technologies in the country to which they are being exported and assess the impact of the exports on the right to privacy, the right to data protection, freedom of expression, and the freedom of assembly and association. Improved transparency measures will also require Member States to register and publish authorisation data concerning exports approved and denied, thereby permitting democratic oversight bodies, individuals, civil society and journalists to gain insight into the global trade in surveillance technologies. Other measures include a new list²⁵¹ of technologies requiring export authorisation – and obligations on exporters to provide evidence of their diligence with respect to human rights.

245. ‘With the exception of certain very sensitive goods registered on a list specifically annexed to the regulations, transfers within community territory are not subject to these controls’.

246. Possibility to verify that the sender and the receiver indeed are the parties that declare having received and sent the message.

247. Decree No. 2010-294 of 18 March 2010 establishing an interministerial commission for dual-use goods, Légifrance, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000021996426>

248. Cf. *Decree of Creation of the CIBDU*
<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000021996426>

249. Cf. <https://www.accessnow.org/eu-european-parliament-must-vote-stop-surveillance-equipment-going-rights-abusing-governments/>

250. ‘Report from the Commission to the European Parliament and the council on the implementation of Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items’. Cf. trade.ec.europa.eu/doclib/docs/2017/november/tradoc_156396.pdf

251. The list of technologies falling under the category of dual-use goods established by the European Union includes the dual-use goods covered by the Wassenaar Arrangement, the NSG (Nuclear Suppliers Group), the MTCR (Missile Technology Control Regimen), the Australia Group (against biological and chemical proliferation) and the Chemical Weapons Convention.

The draft law proposed by the Commission involves, among other things, expanding the definition of dual-use goods to include “cyber-surveillance technologies that could be used to commit grave violations of human rights or of international humanitarian law or that could constitute a threat to international security or the vital security interests of the Union and its Member States” (Article 2, paragraph one, clause b). These technologies include mobile telecommunications interception equipment; intrusion software; surveillance centres; and systems for intercepting and preserving legal data (Article 2, paragraph 21 of the proposal). The version adopted by the European Parliament on 17 January 2018 includes equipment that makes it possible to analyse biometric data, as well as IP and telecommunications surveillance systems²⁵².

Furthermore, the Commission proposes adding a “catch-all clause” that would make it mandatory to obtain authorisation for the export of dual-use goods not on the control list [but] meant for use by people who are complicit in or have been charged with organising or committing grave violations of human rights or of international humanitarian law in situations involving armed conflict or domestic repression in the country of final destination” (Article 4 (1) (d)). The obligation to determine whether items are destined for misuse in the manner described above is shared by both the competent authorities and the exporter. The obligation of “reasonable diligence” on the part of the exporter is explicitly noted in the proposal (Article 4, paragraph two).

2.3. Obligations of the French State concerning the actions of companies

In addition to the specific commitments of the French State with respect to exports of arms and dual-use goods, the State has more general obligations regarding the actions of companies domiciled on its territory. Under international law, specifically the International Pact on Economic, Social and Cultural Rights, Signatory States to various binding instruments of international law may be held directly liable for the actions or inactions of commercial companies²⁵³. This obligation is also established by the European Convention on Human Rights²⁵⁴. According to the International Covenant, the Signatory States must “adopt a legal framework obliging commercial companies to give proof of reasonable diligence with respect to human rights in order to identify, prevent and attenuate the risks of violation of the rights set out in the Pact”²⁵⁵. Accordingly, the Committee on Economic, Social and Cultural Rights recalls that States also have the obligation to take all necessary measures to ensure that human rights are respected by all entities operating under their jurisdiction, including beyond their territorial borders. Appropriate measures must be taken to prevent violations, document them when they do take place, punish those responsible for them and find solutions to them.

It had long been a matter of debate in law and the doctrine of international law, whether a company's State of Origin is obliged to control its actions abroad and prevent it from committing human rights violations, when the company operates in a foreign State, either directly or through its supply chain. This question was eventually answered, first by the Maastricht Principles, and then by Observation 24 of the United Nations Committee on Economic, Social and Cultural Rights²⁵⁶, which is binding for States that have ratified the International Covenant. The Committee affirms in particular that, in addition to the application of these principles on their national territory, the States have the obligation to protect, respect and implement human rights beyond their national borders, specifically in relation to the activities of their companies. In this observation²⁵⁷, the Committee also clarifies that Signatory States are obliged to “take the measures necessary to prevent human rights violations [from being] committed abroad by companies domiciled in their territory and/or jurisdiction (whether or not the companies were incorporated in that country or have their registered office

252. ‘Amendments adopted by the European Parliament on 17 January 2018 on the proposal for a regulation of the European Parliament and of the Council setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast) (COM(2016)0616 – C8-0393/2016 – 2016/0295(COD)) (1) (Ordinary legislative procedure: – recast)’, European Parliament. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-20180006+0+DOC+XML+V0//EN>

253. United Nations Committee on Economic, Social and Cultural Rights. ‘General Comment No. 24 (2017) on the obligations of States under the International Covenant on Economic, Social and Cultural Rights in the context of corporate activities. (Paragraph 11), 10 Aug 2017, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FGC%2F24&Lang=en. See also: <https://www.fidh.org/en/issues/globalisation-human-rights/business-and-human-rights/the-un-committee-on-es-cr-underlines-states-obligations-with-regard-to>

254. See in particular the interpretation of Articles 2 and 8 provided by the European Court of Human Rights in relation to the obligations of States to protect human rights on their territory with respect to industrial activities. See for example: D. Augenstein, *State responsibilities to Regulate and Adjudicate Corporate Activities under the European Convention of Human Rights*, April 2011.

255. *Ibid.*, United Nations Committee on Economic, Social and Cultural Rights. ‘General Comment No. 24, 10 Aug 2017 para. 16.

256. *Ibid.*, United Nations Committee on Economic, Social and Cultural Rights. ‘General Comment No.24, 10 Aug 2017.

257. *Ibid.*, United Nations Committee on Economic, Social and Cultural Rights. ‘General Comment No.24.

there), without infringing on the sovereignty or diminishing the obligations of Host States under the Pact²⁵⁸. The Committee also emphasizes that the Signatory States must take all measures necessary to prevent and remedy violations of the rights recognized by the Pact that take place beyond their borders owing to the activities of commercial entities over which they can exercise control, in particular in cases in which the national courts of the State where the harm took place are unavailable or ineffective²⁵⁹. Finally, it affirms the need for criminal and administrative sanctions when companies have not acted with the required diligence. In cases involving human rights violations, it suggests, for example, the review of government procurement contracts, export credits and other forms of State support, and of privileges and advantages²⁶⁰.

Concerning cases in which businesses that have ties to or are wholly or in part controlled by the State, or that receive substantial support and services from public bodies, the authorities must take especially rigorous measures to prevent human rights violations by those businesses. Indeed, the closer a company is to the State, or the more it depends on statutory authority or taxpayer support, the more critical is the approach taken by the State in ensuring that the company respects human rights²⁶¹. For this reason, the United Nations Guiding Principles on Business and Human Rights (“UN Guiding Principles”) indicate that States must encourage and where appropriate require the exercise of effective due diligence with respect to human rights. This obligation also applies to institutional investors, even minority shareholders²⁶², as do the OECD Guiding Principles for Multinational Companies²⁶³, which in their 2011 revision include a chapter on human rights that is in line with the UN Guiding Principles. These Guiding Principles also indicate that when States hold or control companies, they have more resources for ensuring the exercise of effective due diligence²⁶⁴.

Thus, the French State has an obligation to protect against human rights violations that could be committed by third parties, including businesses domiciled in France that operate not only on French territory but also abroad. Clearly, in order to be able to fulfil this obligation, France must make sure its policies are coherent and consistent with its international commitments, including by providing the information, training and support needed by governmental bodies and other public institutions (for example, public investment banks, development banks, export credit agencies or State participation agencies). States can influence businesses’ behaviour, and as such, they must act in conformity with their human rights obligations²⁶⁵.

To the extent that weapons and surveillance equipment capable of contributing to grave human rights violations have been and continue to be supplied to Egypt by French companies, including some in which the State is a shareholder or companies it controls indirectly (Thales, Airbus, RTD, Ercom)²⁶⁶, two conclusions seem obvious. Firstly, the French system for controlling exports of military equipment and surveillance technologies is in contradiction with France’s international human rights obligations; and secondly, the political will to reform this system was absent under the last [French] presidency and still is.

2.4. The French system for controlling exports of military equipment: opaque and inadequate

The French arms exports regime is based on the principle of prohibition. According to the 1939 decree, revised by a 2004 order, “the production, trade, storage and exporting of military equipment may be done only with the authorisation of the State and under State control”²⁶⁷. The decision to

258. *Ibid.*, United Nations Committee on Economic, Social and Cultural Rights, para. 26.

259. *Ibid.*, United Nations Committee on Economic, Social and Cultural Rights, para. 30.

260. *Ibid.*, United Nations Committee on Economic, Social and Cultural Rights, para. 15 and 30.

261. This principle was also reaffirmed by the United Nations Guiding Principles on Business and Human Rights, Principles 7 and 8, which were successively detailed by an opinion of the United Nations Working Group on Business and Human Rights of 2014, *op. cit.*

262. Letter from OHCHR to OECD Watch, ‘The issue of the applicability of the Guiding Principles on Business and Human Rights to minority shareholdings’, Geneva, 26 April 2013.

263. OECD. Due diligence in the financial sector: adverse impacts directly linked to financial sector operations, products or services by a business relationship, June 2014.

264. Working Group on the issue of human rights and transnational corporations and other business enterprises, *op. cit.*

265. United Nations Guiding Principles on Business and Human Rights, Principle No. 8, p. 12.

266. The French State holds 26% of Thales, 11% of Airbus and 20% of RTD, three major arms companies that depend on French public orders and rely on the French State policy to win new contracts. Since 2012, Ercom has been backed by the State-controlled Public Investment Bank, which holds nearly 30% of the company’s capital and is intended to support companies corresponding to public-oriented activity. As for Idemia/Morpho, it was owned by Safran until recently with 14% controlled by the French State, before being acquired by Oberthur Technologies, a private French company.

267. Decree of 18 April 1939 defining the regimen of the military equipment, arms and ammunition. Legifrance, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006071834&dateTexte=19940228>

export arms rests with the Prime Minister, after consultation with the **Inter-ministerial Commission for the Study of Military Equipment Exports (CIEEMG)**. The Commission is chaired by the Secretary General of Defence and National Security (who reports directly to the prime minister), and is made up of the ministries responsible for Foreign Affairs, Defence and the Economy. Until June 2014, military equipment export operations were subject to a two-phase authorisation process (prior agreement and export authorisation). It has now been replaced by a single license issued by the Minister responsible for Customs, after consultation with the Prime Minister and the ministers of the Economy, Foreign Affairs and Defence, within the framework of CIEEMG.

To reach its decision, in addition to complying with the “general directives approved by the political authorities”, CIEEMG must ensure compliance with the commitments undertaken under the international instruments to which France is a party (ATT, the EU Common Position, the Wassenaar Arrangement, and more) and any sanctions or measures adopted by the UN Security Council and the European Council. According to a legal opinion requested by ACAT France and Amnesty International France, Article L2335-4 of the Defence Code makes it possible to suspend, cancel, or modify licenses granted “for reasons of honouring France’s international commitments”²⁶⁸.

As explained previously, under the Arms Trade Treaty, France is obliged to assess whether exports of military equipment risk contributing to human rights violations. In addition, according to the EU Common Position, before issuing an arms export authorisation, France must evaluate the compatibility of that request with several criteria, including respect for human rights. In the context of the military cooperation between France and Egypt since 2013, it appears that CIEEMG has not particularly sought to assess the risk that military equipment supplied to Egypt could contribute to human rights violations or that it could be used during anti-terrorist operations, especially in the Sinai, during crowd-control operations in an urban setting such as during demonstrations, or to monitor suspected dissidents. The pursuit of French arms export authorisations without questioning their potential use in the perpetration of grave violations of human rights and international humanitarian law is a concern which is not restricted to Egypt. It has to do with a strong strategic and political orientation of French diplomacy since 2013: under the pretext of fighting terrorism, among other things, France seemingly disregards its international commitments by supplying military equipment to States that care little for respect for human rights such as Saudi Arabia, Egypt or the United Arab Emirates, to name but a few regimes in the Arab World.

The lack of transparency surrounding discussions and decisions relating to exports of military equipment, attributed largely to “Military Secrecy”, supports this policy. CIEEMG deliberates behind closed doors and never reports to the National Assembly on its decisions or its methods for assessing the legality of export licenses. Each year the authorities publish a report to Parliament on arms exports from France²⁶⁹. But this report gives no information on the precise description of the equipment sold under a particular contract, such as the exact name of the equipment sold, the name of the manufacturer, or the amount of equipment exported. It only lists the financial value of the licenses by country, broken down by European Union equipment lists, and the number of licenses granted. Those numbers are too broad, however, to identify the material sold. With respect to data on order intakes and deliveries, there is less information, because only the financial amounts per country are given. These missing data are necessary, however, if one is to comprehend the reality of the arms transfers. Finally, since 2013, the publication of the report to Parliament has not been followed by any debate, although in previous years it was at least the subject of one presentation to the parliamentary Defence Commission. When members of the National Assembly base a parliamentary question to the government on data from the report, the government generally refuses to answer, invoking Military Secrecy.

Now that RTD Sherpa vehicles have begun to appear in the ranks of Egyptian security forces in the Sinai²⁷⁰, where the war on terrorism conducted by the regime of Abdel Fattah Al-Sisi is leaving numerous civilian victims in its wake and is tarnished with grave human rights violations (see Chapter 1), France must finally take responsibility and fully honour its international commitments, especially with respect

268. Braham, J., and Greig, L., ‘Les transferts d’armes de la France dans le cadre du conflit au Yémen, à compter d’avril 2015 jusqu’à la période actuelle’, 16 March 2018, p.13. (*Arms transfers from France in the context of the conflict in Yemen, from April 2015 until the current period*) https://www.acatfrance.fr/public/etude-juridique_cabinet-ancile_transfert-d-armes-de-la-france-dans-le-cadre-du-conflit-au-yemen.pdf.

269. Report to Parliament 2017 on arms exports, Ministry of the Armed Forces. <https://www.defense.gouv.fr/actualites/articles/publication-du-rapport-au-parlement-2017-sur-les-exportations-d-armement>

270. <https://www.bastamag.net/Comment-la-France-coopere-avec-un-regime-qui-pratique-la-torture-traque-les>

to arms sales. It is difficult to expect the government to simultaneously promote and control arms sales. It is therefore up to Parliament to play its role of overseeing government activity (Article 24 of the 1958 Constitution). Therefore, methods of transparency and parliamentary oversight of military equipment exports must be reviewed on that basis.

France also lags far behind its European partners in terms of transparency²⁷¹. According to the Flemish Peace Institute, which conducted a comparative study rating the most transparent and rigorous European arms export control systems in 2017, France ranked behind Sweden, Great Britain, the Netherlands, the Flemish Region of Belgium, and Germany²⁷². In most other European countries, government interference in arms exports is a regular occurrence. It has been facilitated by the establishment of an export control commission or by the obligation, under certain conditions, to inform Parliament when a new license is granted. However, France may be turning over a new leaf with a proposal for a parliamentary inquiry commission on French arms sales and their use in Yemen, filed on 5 April 2018 by MP Sebastien Nadot and co-signed by several other LREM MPs²⁷³.

3. Human rights obligations of businesses

3.1. The obligation to identify, prevent and mitigate the adverse impacts of their activities on human rights

While most of the binding obligations laid down in international law are directed at States, individuals and companies are also subject to certain obligations and responsibilities concerning respect for human rights. The United Nations Guiding Principles (UNGP) on Business and Human Rights (approved unanimously by the United Nations Human Rights Council) and the OECD Guiding Principles for Multinational Companies, revised in 2011, represent a major development in this regard. These two documents reiterate the responsibility of companies to respect human rights no matter where they operate, and international human rights law in conflict situations²⁷⁴. These responsibilities concern all of the human rights recognised by international law²⁷⁵. The OECD Guiding Principles also establish an extrajudicial mechanism for their implementation: the National Contact Point (NCP), which provides a procedure for mediation and conciliation between companies and victims, giving victims' representatives the means to refer to the NCP if a company should fail to respect the Guiding Principles.

According to the United Nations Guiding Principles, the responsibility to respect human rights requires companies:

- a) To avoid having adverse human rights impacts or contributing thereto by their own activities, and to remedy such impacts when they occur, while highlighting the preventive function of this tool;
- b) To attempt to prevent or mitigate adverse human rights impacts directly related to their activities, products or services by their business relationships, even if they have not contributed to those impacts²⁷⁶.

Companies must therefore exercise due **diligence** in order to identify, prevent and mitigate adverse human rights impacts, and they must report on how they remedy them. "Adverse impacts" mean **actual or potential human rights impacts** that companies may have, to which they may contribute, or which are directly linked to their activities, products or services by virtue of a business relationship or through their trade relations. Due diligence with respect to human rights must be exercised continuously and

271. See the report: 'French arms sales: 'indicators of presence' in Yemen and the necessary reform of control mechanisms', Armaments Observatory, FIDH, SAF and LDH, 9 April 2018. <https://www.fidh.org/en/region/north-africa-middle-east/yemen/fidh-org/en>

272. Cops, D., Duquet, N., and Gourdin, G., *Towards Europeanised arms exports controls*, Flemish Peace Institute, p.156.

273. 'Ahead of Saudi prince visit, Macron lawmaker asks for inquiry over French arms sales', Reuters, 5 April 2018. <https://uk.reuters.com/article/uk-france-saudi-arms/ahead-of-saudi-prince-visit-macron-lawmaker-asks-for-inquiry-over-french-arms-sales-idUKKCN1HC2ND>

274. For further details, see: FIDH report of 2015, "Dangerous links of Orange in the Occupied Palestinian Territory". <https://en.scribd.com/document/264256909/Report-Dangerous-Connections-d-Orange-in-the-TPO>

275. The responsibility in question refers to all human rights recognized internationally, at least to those included in the International Human Rights Charter (which consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) and the Declaration on Fundamental Principles and Rights at Work of the International Labor Organization (UNGC 11 and 12, PDOCDE Chapter II, paragraph 2 and Chapter IV, Commentary).

276. PDNU 13; see also PDOCDE Chapter II, paragraphs 11 and 12.

be based on the risks that economic activities produce for individuals²⁷⁷. It entails impact studies and relevant internal assessment processes²⁷⁸ allowing companies to “monitor the effectiveness of the measures that they have taken”, basing themselves on appropriate qualitative and quantitative indicators” and appropriate internal and external sources²⁷⁹.

To report on how they remedy their human rights impacts, companies should be prepared to communicate this information externally. Companies whose activities or operating frameworks present risks of grave human rights impacts must officially reveal how they are countering them and how they take the necessary measures to prevent or halt possible adverse impacts (Principle 21).

This ‘due diligence’ measure contained in the Guiding Principles was recently the object of several legislative measures in different States. In France, it resulted in Law No. 2017-399 of March 2017 on the Duty of Vigilance of Parent Companies and Contracting Companies²⁸⁰. This law obliges large French companies to effectively implement a vigilance plan including “reasonable vigilance measures likely to identify risks and prevent grave infringements of human rights and fundamental freedoms, the health and safety of people and the environment resulting from company activities, and those of the companies that it controls, directly or indirectly, as well as the activities of subcontractors or suppliers with which it maintains an established business relationship, when those activities are associated with this relationship” (Article 1/I). This plan and the report on its implementation must be made public in the company’s annual report. The law also specifies that “when a company that has been formally notified that it must comply with the obligations stipulated in I does not fulfil those obligations within three months as of the date of formal notification, the competent court may, at the request of anyone demonstrating *locus standi* (capacity to act), order said company to comply therewith, under threat of a penalty if necessary” (Article 1/II).

This law is applicable to every limited company which, at the end of two consecutive periods, either employs at least 5,000 employees in its branches and subsidiaries headquartered in France, or at least 10,000 employees in its branches and subsidiaries headquartered in France or abroad²⁸¹. It is also specified that “a company that goes beyond the applicable size will be considered to be complying with such obligations if the company that controls it establishes and implements a vigilance plan related to its activity and the activities of all the companies which it controls”²⁸². Several companies mentioned in this report, including large companies or subsidiaries of large companies, fall within the scope of this law and must therefore publish a vigilance plan in 2018. Thales’ 2017 document of reference details “the actions that were long undertaken [...] which aim to be included in the global vigilance plan that will be set during 2018 and presented in the 2018 document of reference”²⁸³. Airbus specifies in its 2017 annual report that “the company is also focusing on complying with the EU Directive on disclosure of non-financial information and the French ‘Devoir de vigilance’ law (see the 2017 Registration Document), as well as other regulations”²⁸⁴. In its 2017 document of reference, Safran states its will as of 2018 to reinforce “its control system of its relationship with suppliers in order to respond to changes in legislative and regulatory obligations through the implementation of a vigilance plan”²⁸⁵.

The United Nations Guiding Principles also define the concept of “relationship of business and influence”, which is decisive in establishing the liability of a company within its supply chain. They also clarify that “influence exists when the company has the ability to make changes to the illegal practices of an entity that is committing an abuse.” In order to avoid contributing to adverse human rights impacts, including impacts connected to their external relationships, companies must use their influence and intervene with the responsible entity in order to prevent and mitigate these adverse impacts. By “contributing to adverse impacts”, the United Nations Guiding Principles mean “an activity that provokes, facilitates or incites another entity to provoke an adverse impact”. If the company has the power to prevent or mitigate the adverse impact, it must exercise that power, or it must attempt to increase its influence in

277. PDNU 17; PDOCDE Chapter II, paragraphs 11 and 12 et commentary.

278. PDNU 19.

279. PDNU 20.

280. <https://www.legifrance.gouv.fr/eli/loi/2017/3/27/2017-399/jo/texte>

281. <https://www.lemondedudroit.fr/decryptages/55598-2018-premiere-annee-plan-vigilance-grandes-entreprises.html>

282. Ibid.

283. https://www.thalesgroup.com/sites/default/files/asset/document/document_de_reference_2017.pdf

284. http://www.airbus.com/content/dam/corporate-topics/financial-and-company-information/AIRBUS_Annual_Report_2017.pdf

285. <https://www.safran-group.com/sites/group/files/safran-document-de-reference-2017.pdf>

that direction, where applicable. When a company lacks this power, it must consider ending the business relationship. In addition, “in all cases, as long as the infringement continues and the company remains in the relationship, it must be able to demonstrate the continual efforts that it has taken to mitigate the impact and be prepared to accept all the consequences – to its reputation and its financial and/or legal status – of maintaining this association” (PDNU 19, Commentary). When a company is unable to prevent or mitigate adverse impacts directly linked to its services by its business relationship with another entity, it can be prevailed upon to consider ending that relationship (Principle 19, Commentary).

In case of a conflict between national and international human rights law, a State’s failure to respect its international human rights obligations does not exempt companies from their own responsibility to respect human rights²⁸⁶. “When circumstances in the country make it impossible to fully discharge that responsibility, companies are supposed to respect universally recognized human rights principles to the greatest extent possible under the circumstances and be able to provide evidence of the efforts that they are making in this regard” (Principle 23, Commentary).

In France, the draft law on the “*secret des affaires*” (business confidentiality) which was voted on 14 June 2018 could constitute a regression in companies’ obligations to respect human rights. Several organisations advocating for human rights and individual freedoms consider the definition of business confidentiality in the draft law is too broad and vague²⁸⁷. This law could allow companies to use it to decline to disclose some relevant information, as well as to prosecute third parties who do disclose it. Thus, companies could use this law to “*prosecute any person who obtained or revealed sensitive information*”²⁸⁸, in total contradiction with efforts pursued at the international and European levels to reinforce whistleblowers’ protection²⁸⁹.

3.2. Potential criminal liability of companies – precedents from the Amesys/Nexa Technologies and Qosmos cases

In France, Article 121-2 of the Criminal Code lays out a general principle concerning the criminal liability of corporations, and also stipulates “the criminal liability of corporations does not exclude that of any individuals who are perpetrators of or accomplices to the same acts”. This means that companies can be criminally liable, as perpetrators or accomplices, for offences that they commit, even abroad, under the extraterritorial jurisdiction of French courts prescribed for certain crimes defined by international law.

Based on these provisions, FIDH and LDH, its member organisation in France, filed a complaint against Amesys in October 2011 for complicity in an act of torture, following reports in the international press of the sale of surveillance equipment to the Libyan regime of Muammar Gadhafi in 2007. A judicial investigation was opened on 23 May 2012 by the special division for war crimes, crimes against humanity, genocide and torture of the Paris Criminal Court (Tribunal de grande instance de Paris). That investigation is still ongoing. Since 2013, seven Libyan victims have brought civil suits against Amesys and have travelled to France to testify about how they were tortured after being identified through electronic surveillance. In May 2017, Amesys was assigned the status of “assisted witness” for allegations of complicity in acts of torture committed in Libya between 2007 and 2011.

Then, on 25 July 2012, FIDH and LDH filed a complaint with the Office of the Public Prosecutor of the Paris Criminal Court (Parquet du Tribunal de grande instance de Paris), asking the French courts to investigate the involvement of French companies, especially Qosmos, in providing surveillance equipment to the Syrian regime. The judicial investigation was opened on 11 April 2014. Five Syrian victims came to testify in July 2015 about acts of torture connected to surveillance by the Syrian regime. In 2014, the prosecutor called for additional indictments for complicity in crimes against humanity. In 2015, Qosmos was assigned the status of assisted witness based on allegations of complicity in acts of torture and crimes against humanity committed in 2010 and 2012 in France and in Syria. The investigation is ongoing.

286. According to the Guiding Principles, ‘the responsibility to respect human rights is a standard of conduct that is expected of all companies everywhere. It exists independently of the capacity and/or determination of States to fulfill their own human rights obligations and does not restrict them. It also prevails over the respect of national laws and regulations that protect human rights’. (Principle 11).

287. <https://www.ldh-france.org/secret-affaires-accord-en-catimini-dos-libertes/>

288. Ibid.

289. https://ec.europa.eu/commission/news/whistleblower-protection-2018-apr-23_en

In 2013 when the French media asked Fleur Pellerin, then French Minister of New Technologies, about the two court cases, she announced that France intended to submit an amendment to the Wassenaar Arrangement (see above) to add technologies sold by these companies to the list of dual-use goods so that export control measures would factor in criteria connected to possible violations of human rights²⁹⁰.

Lastly, on 9 November 2017, FIDH and LDH filed information on events related to the participation of the French company Nexa Technologies (formerly Amesys) in acts of repression by Egypt through the sale of surveillance equipment. This information was a follow-up to the disclosures made in the 5 July 2017 issue of the magazine *Télérama*, which also pointed out that SBDU had refrained from expressing an opinion on these exports (see below), thereby violating provisions of the Wassenaar Arrangement that had been introduced in the French system of control of this kind of exports. A judicial investigation was opened a few days after the submission of this denunciation by the Paris Prosecutor, who thereby acknowledged the gravity of the allegations, thus allowing the NGOs to stand as civil parties and making it possible for Egyptian victims to stand as civil parties and come to testify in France.

Though the outcome of these legal proceedings is still uncertain, they still demonstrate the risks these companies are taking, in particular regarding their criminal liability before French criminal courts, as potential accomplices of grave human rights violations perpetrated through the technologies that they have apparently sold.

290. Cf. <http://www.leparisien.fr/le-gouvernement-pret-a-renforcer-les-controles-18-06-2013-2906289.php>

Conclusion

The enormous increase in French armaments exports to Egypt, as well as the type of military equipment and technology being supplied, especially since 2013, evidence France's staunch support for a particularly repressive regime in the context of widespread human rights violations. Egyptian security forces have been organising widespread surveillance of the population, silencing all dissenting voices and committing the worst acts of violence observed in that country for decades. All the while, France has been striving to develop a strategic and commercial partnership with the country through massive deliveries of military equipment, with total disregard for the suffering of Egyptians.

Perpetuating mass murders of civilians and protesters; preventing and repressing social movements; tracking down dissidents, writers, trade unionists, LGBTI persons and human rights defenders; forging accusations against all sorts of dissident voices; providing Egyptian intelligence services with the pieces of a control architecture and the means for blanket surveillance of the population, and saturating public and private space with so-called preventive surveillance systems, likely to 'neutralise' potential dissidents before the outbreak of any protests; and preventing the repetition of a revolutionary uprising similar to that of 2011 which brought an end to Hosni Mubarak's 30-year reign: this is what is at stake with the export of these arms and surveillance technologies to Egypt.

France has authorised the sale and delivery of this equipment, officially in order to support the Egyptian government's supposed fight against terrorism, while deliberately ignoring the repeated, well-known and documented use of these weapons and technologies against the civilian population by Egyptian police and armed forces since 2011, and more than ever since 2013. The French authorities have, in fact, knowingly permitted Egyptian security forces to acquire the necessary technology to implement a totalitarian surveillance project, as well as the authoritarian and abusive control of the country's population and civil society. French equipment and technology have also potentially enabled the Egyptian forces to carry out unprecedented repression of social movements and all forms of dissent in the country. Thus, by reinforcing the dictatorship by Egyptian security forces, which violate Egyptians' most basic rights and freedoms on a daily basis, French companies and authorities are contravening their international human rights obligations.

Recommendations

FIDH and its Egyptian and French member organisations, the Cairo Institute for Human Rights Studies (CIHRS) and the Human Rights League (LDH) respectively, as well as the Armaments Observatory, call on :

The Egyptian authorities:

1- To cease the systematic practices of arbitrary arrests and excessively long pretrial detentions, extrajudicial executions, enforced disappearances, torture and other forms of cruel, inhuman or humiliating treatment; ensure independent and impartial investigations into such violations, particularly violations of the International Covenant on Civil and Political Rights and the United Nations Convention against Torture (UNCAT); and ensure victims' access to justice and compensation, in compliance with their international law obligations;

2- To immediately and unconditionally free all persons, including human rights defenders, detained in Egypt for having exercised their constitutionally-protected rights to freedom of expression, assembly, and association;

3- To put an end to the campaign criminalising all forms of dissent, and to harassment and intimidation of any person critical of the government or perceived as such; including lifting all travel bans imposed on human rights defenders, peaceful political or social activists and academics, reviewing the Ministerial Decree governing the imposition of travel bans in accordance with the Constitution; and pardoning all human rights defenders, media workers and peaceful activists who have received heavy prison sentences, sometimes by military courts, solely for exercising their rights to the freedoms of expression, association, assembly and political participation;

4- To repeal the November 2013 law criminalising protests, enact the parliamentary repeal of the 1914 Assembly Law, and stop the systematic arrest and prosecution of protesters and strikers;

5- To put an end to the use of lethal force against civilians, including demonstrators, and ensure impartial and transparent investigation into those cases reported since 2011;

6- To introduce a moratorium on the death penalty with a view to its definitive abolition and commute existing death sentences;

7- To authorise access to international investigators in order to shed light on the murders of demonstrators committed since 2011, including the Rabaa Al Adawiya massacre; **on all reported cases of extrajudicial executions,** including in the Sinai; and on **conditions of detention** throughout Egypt;

8- To close Case No. 173/2011, whose purpose is to repress independent Egyptian civil society;

9- To repeal Law no. 70/2017, which regulates the work of civic associations and civil society organisations, and adopt a new law in line with the Constitution and Egypt's international human rights commitments, following a free and open societal debate on the role, function and status of civil society;

10- To immediately release all persons arrested on the grounds of their sexual orientation, drop all charges against them, and put an end to the harassment campaign targeting LGBTI people or those perceived as such, in accordance with Egypt's international obligations.

The French authorities:

1- To suspend exports of arms and surveillance technology to Egypt as long as grave human rights violations by Egyptian security forces are being reported, and as long as the abuses committed since 2011 have not been investigated; **making these deliveries subject to the strict respect of human rights** by Egyptian authorities;

2- To shed light on the legality of past sales of arms and surveillance equipment, including those mentioned in this report, in light of France's international legal obligations, in order to determine legal responsibilities of both the French government and French businesses; for example, through a **parliamentary commission of inquiry** on the authorisation of exports to Egypt since 2013;

3- To create a permanent parliamentary commission for the control of French exports of military and surveillance equipment, whose role may include:

- Regular debates on such exports;
- Examining requests for weapons exports to 'sensitive' destinations, and/or where the amount of the export exceeds a certain limit, and adopting a warning mechanism that will be triggered prior to export decisions by the Prime Minister and the Inter-ministerial Commission for the Study of Military Equipment Exports (*CIEEMG*) and the Inter-departmental Commission of Dual-Use Goods (*CIBDU*) for all transfers to sensitive destinations;
- Holding regular discussions with the Ministries of Defence and Foreign Affairs, as well as NGOs, on the list of sensitive destinations understood to be 'risk areas' seriously affected by internal or regional tensions, or where grave human rights violations occur. This list must be based on respect for the eight criteria of the European Union's 2008 Common Position, as well as obligations under the Arms Trade Treaty (ATT) ratified by France on April 2, 2014; and it must take into account the risk of the arms' diversion after delivery;
- Organise regular hearings of independent experts and representatives of civil society organisations;
- Demand government justification for arms exports when there is a risk that these might contravene France's international obligations, or a considerable risk this may occur in the future;
- Discuss, approve (or reject) and regularly monitor the implementation of any strategic partnership that the Ministries of Defense and Foreign Affairs wish to develop or pursue with other States, and in particular those which would involve strengthening the exports of arms or dual-use items;

4- To adopt robust transparency measures, in particular:

- Detailed and timely publication of data concerning orders, deliveries, license denials, amounts and types of equipment – in short, the information essential to informing public debate on the sales of arms and dual-use articles, which is necessary to the functioning of any democratic society;
- Reform of the process for authorising exports of dual-use goods, whose current opacity is particularly alarming, especially the manner in which the relevant Interministerial Commission evaluates requests and issues licenses;
- Include dual-use items in the Annual Report on Arms Exports;

5- To ensure coherence among internal policies and institutions, especially in providing information, training and support to State agencies and other public institutions (including public investment banks, development banks, export credit agencies or agencies with State participation), to ensure they all act in **accordance with the country's human rights obligations**;

6- To ensure French laws' compliance with France's international and European human rights commitments, and in particular review the **law on the "secret des affaires" (business confidentiality)**, which imposes obstacles to freedom of expression, in contradiction with the French State's human rights obligations;

7- To exercise their duty of vigilance vis-à-vis the activities of State-owned enterprises and risks of human rights violations.

Companies exporting arms and surveillance equipment to Egypt, including French companies:

1- To end exports of military and surveillance material to Egypt in compliance with their international responsibility to respect human rights in all countries where their activities are located;

2- To respect international law and the UN Guiding Principles on Business and Human Rights, in particular regarding the adoption of due diligence measures in the supply chain in order to identify, prevent and address the risks of human rights abuses related to their activities;

3- When applicable, to comply with Law No. 399 of March 2017 on the duty of vigilance incumbent upon parent companies and contractors, to **develop and implement a vigilance plan in consultation with stakeholders.**

The European Union:

1- To adopt new dual-use trade regulations that oblige Member States to deny export licenses when there is a legitimate risk of human rights violations. These must **cover all surveillance technologies**, define and reinforce the requirement of transparency and control, pinpoint the details of the various licenses requested, the reasons for refusing or granting them, the items and equipment in question, their description, value, country of destination, and end user;

2- To take stock of the failure to implement the Foreign Affairs Council Conclusions of 21 August 2013 and, accordingly, adopt a Council Decision and the corresponding Council Regulation prohibiting the sale, transfer or export of weapons to Egypt.

The United Nations Working Group on the issue of Human Rights and Transnational Corporations and other business enterprises:

1- To request a country visit to Egypt to look into the impact of business related to surveillance technology on the human rights situation in the country;

2- If no State invitation is forthcoming within a fair time limit, to issue a statement on the situation in Egypt with regard to these issues.



Founded in France in 1898 during the Dreyfus case, the **French League for Human Rights (LDH)** defends the rights of the individual, fights against discrimination and undertakes the role of promoting political and social citizenship for all.

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The Observatoire des armements is an independent expertise center founded in France in 1984. It supports the work of civil society in regard to defense and security issues and advocates for a gradual demilitarization of society. The Observatoire des armements focuses on two topics: armaments transfers and the armaments industry, and nuclear weapons and their consequences. It publishes studies and a newsletter, Damoclés. More details on: <http://www.obsarm.org/>



CIHRS is an independent regional policy institute & non-governmental organization, founded in 1993 in Cairo, with representatives and offices in Brussels, Cairo, Geneva, New-York and Tunis. CIHRS advocates for the respect of human rights and democracy across the Middle East and North Africa (MENA) region, with a focus on political & civil rights, the protection of public space, justice and accountability. CIHRS aims to empower change makers and elevate the voices of local human rights defenders by building their capacity to engage with international stakeholders and by integrating investigative research, campaigning and networking to advocate for policy change.

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ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

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