

CASE REPORT [Status: March 2025]

Challenging Arms Exports to Israel: Germany's Responsibility for International Law Violations in Gaza

The Israeli war on Gaza has caused devastating humanitarian consequences, with thousands of Palestinians killed and injured, an almost complete destruction of civilian and medical infrastructure in Gaza and repeated mass displacement. European states, and in particular Germany, have long been key suppliers of weapons and military equipment to Israel. Despite widespread allegations of violations of international humanitarian law (IHL) by Israeli military during the hostilities, arrest warrants by the International Criminal Court (ICC) for war crimes and crimes against humanity against Israeli Prime Minister Netanyahu and former Defense Minister Gallant as well as various human rights organizations and international law experts legally qualifying Israel's conduct in Gaza as a genocide, Germany has continued to approve arms exports to Israel.

The European Center for Constitutional and Human Rights (ECCHR), alongside its Palestinian partner organizations Palestinian Center for Human Rights (PCHR), Al Mezan and Al Haq, has made efforts to **stop** and **prevent** the export of German weapons of war and other military equipment to Israel, which could be used to commit grave violations of international law in Gaza. ECCHR has argued that the German government's approval of such arms exports has facilitated war crimes and other grave breaches of international law by Israel, making Germany complicit in these violations.

While the recent ceasefire agreement between Israel and Hamas has provided (at the time of writing) a temporary decline of active hostilities in Gaza, the situation in Gaza remains fragile, while violence by the Israeli military in the West Bank is escalating. ECCHR continues to demand transparency and accountability for the role of German weapons in the Gaza war and will continue to push for stricter enforcement of export controls to prevent future violations of both domestic and international law.

The German legal framework for arms exports

The German legal framework governing arms exports places the types of military equipment into two categories – war weapons, and other military equipment. Depending on which category of item is being exported, distinct legal provisions apply. Under German law, all licenses for military equipment exports (both war weapons and other military equipment) must comply with the **Foreign Trade and Payments Act (AWG)**

and its corresponding ordinance (**AWV**). However, exports of war weapons are subject to an additional layer of oversight under the **War Weapons Control Act (KrWaffKontrG)**.

This distinction results in separate legal challenges before different administrative courts—the **Administrative Court in Berlin for war weapons** and the **Administrative Court in Frankfurt am Main for other military equipment**. The allocation of judicial review to different courts reflects the regulatory responsibilities of distinct government bodies:

- **War weapons, including anti-tank weapons, bombs, and certain types of ammunition**, fall under the direct jurisdiction of the **Federal Ministry for Economic Affairs and Climate Action (BMWK)**. As the designated authority for approvals under the War Weapons Control Act, the **BMWK is based in Berlin**, making the **Administrative Court in Berlin** the competent forum for legal challenges against export decisions involving war weapons.
- **Other military equipment, such as components for weapons systems, tank engines, transmissions, and licenses for technology transfers**, do not fall under the War Weapons Control Act. Instead, these exports are handled as general foreign trade transactions overseen by the **Federal Office for Economic Affairs and Export Control (BAFA)**. Since **BAFA is headquartered in Hessen**, legal challenges concerning such export approvals must be filed before the **Administrative Court in Frankfurt am Main**.

As a result, legal challenges against exports of war weapons are directed at **federal decision-making processes**, whereas challenges concerning other military equipment focus on **administrative decisions taken by BAFA**.

Legal challenges against arms exports to Israel supported by ECCHR and its Palestinian partners

ECCHR and its Palestinian partner organizations have supported the filing of several legal actions in Germany brought by individuals from Gaza, arguing that Germany's arms exports to Israel violate international law. Under the EU Common Position on Arms Exports and the Arms Trade Treaty (ATT), states must assess whether the recipient country risks using the exported weapons to commit serious violations of international law. Under the German War Weapons Control Act, licenses for weapons of war must be declined, if there are grounds to believe that the issuing of the license

would violate any of Germany's obligations under international law or jeopardize their fulfillment. Likewise, should such reasons become apparent after the issuance of a license, the license is to be revoked. The Geneva conventions and the genocide convention are just some of Germany's international law obligations relevant in that context. Given the documented reports of systematic attacks on Palestinian civilians and the destruction of vital infrastructure in Gaza, ECCHR contends that Germany has failed to uphold its legal obligations by continuing to supply arms to Israel.

In the proceedings, the applicants from Gaza argued that arms exports to Israel posed a direct threat to their **right to life**, which could not be legally justified under the applicable legal frameworks. Moreover, they highlighted that these arms exports also infringed on other fundamental rights, including their **right to access information** and their **right to an effective remedy**. The applicants underscored the lack of transparency and accountability in Germany's arms export policies, as well as the failure of German authorities to conduct thorough human rights risk assessments before approving arms exports to conflict zones.

Cases on war weapons before the Berlin Administrative Court

In April 2024, ECCHR together with its Palestinian partners supported the filing of a request before the Berlin Administrative Court by five individuals from Gaza, seeking provisional measures regarding a specific license for anti-tank war weapons, after the use of these weapons in Gaza has become public. The aim of the legal challenge was to revoke the licenses and stop the shipment, as the granting of war weapons licenses would violate Germany's obligations under international law, including international humanitarian law, the Genocide Convention, international and domestic law on arms export control, and the Basic Law of the Federal Republic of Germany. Unfortunately, it later turned out that this request had been submitted too late, as the license had already been granted in October 2023 and the weapons had been shipped in November 2023. The case is currently being pursued further as an action for a declaratory judgment, and a decision is not expected before the second half of 2025.

As this first request had been made too late, in May 2024 ECCHR and its Palestinian partners supported a new request for provisional measures to the Berlin Administrative Court by the same applicants in Gaza, challenging a broader number of war weapons that were likely to be exported by Germany for use in Gaza. This procedure was initiated in the absence of clear information on ongoing licensing procedures, as this information was not available to the applicants. During the litigation process, it became clear that no such export applications were currently in progress. This led the court to consequently

reject the request in June 2024, primarily on the basis that the lack of pending licensing procedures meant there was nothing for it to assess.

As a result, the applicants from Gaza filed a third provisional measures request to the Berlin Administrative Court in June 2024, in which they asked to be informed in a timely manner of any new war weapons licenses granted for export to Israel, so that they would then have the opportunity to immediately challenge such an approval in court. Previously, the government made clear that it was not prepared to inform the applicants in the future about approval proceedings that had been initiated, or licenses that had been issued. The Court dismissed this request in September 2024, claiming that the request was inadmissible, as the applicants did not have a right to this information. Furthermore, the Court noted that such information on war weapons licenses could not be provided to the applicants in Gaza, because it touched on a core area of executive responsibility, and could endanger the secrecy and security interests of the Federal Republic of Germany. An appeal against this decision was dismissed in December 2024.

Cases on other military equipment before the Frankfurt am Main Administrative Court

In parallel to the above cases, ECCHR together with PCHR, Al Mezan and Al Haq has also supported two requests for provisional measures filed by applicants from Gaza before the Frankfurt Administrative Court. These cases addressed exports of “other military equipment” – essentially any arms that are not classified as war weapons.

The first legal action challenged all arms export licenses for other military equipment granted since January 2024. However, due to the lack of transparency regarding which licenses had been approved or were pending, the applicants were unable to specify the details of these licenses in their claims. The Frankfurt Administrative Court dismissed the lawsuit, ruling that the plaintiffs had no legal standing to challenge licenses under the Foreign Trade and Payments Act (AWG). The court determined that the AWG does not grant individual legal protection, meaning that individuals cannot contest an export license under this law.

In October 2024, one of the applicants filed a second application for provisional measures, this time targeting two specific export licenses for tank transmissions manufactured by the German arms company Renk. The information on these export licenses became public only by chance, through media reports. The applicant argued that these licenses should not have been approved, in light of the mounting evidence of systematic violations of international law by Israel in Gaza. The submission referenced

the recent arrest warrants issued by the ICC against Israeli Prime Minister Netanyahu and former Defense Minister Gallant, Amnesty International's report classifying Israel's actions in Gaza as genocide, and numerous reports documenting the use of tanks in unlawful attacks against civilians.

The Frankfurt Administrative Court dismissed this application in December 2024, acknowledging the catastrophic scale of the war but ruling that the applicant lacked legal standing to bring the claim. In their dismissive decision the judges also referred to the controversial *Bundestag* resolution on antisemitism, interpreting it as a political directive for the German government to support Israel, including through arms exports, as long as the government considers such exports to be compatible with human rights and international law. The applicants have appealed this ruling, and the appeal is still pending at the time of writing (March 2025).

Applicants' profiles

The litigation efforts outlined in this case report have involved five Palestinian applicants, who currently live in Gaza and have been directly affected by the Israeli warfare. The applicants claim that their right to life has been harmed by the delivery of weapons of war to Israel. Their claims are supported by a large number of reports and legal assessments, by the UN Special Rapporteur on the Occupied Palestinian Territories, other UN experts and bodies, human rights organizations such as Amnesty International, and renowned legal experts.

All five applicants live in Gaza, have been displaced several times since October 2023, and have lost close family members as a result of Israel's actions. The threat to the right to life of all five applicants was, and is, acute.

One of the applicants, Abdalrahman, lost his wife, a lawyer working for the Palestinian Centre for Human Rights, as well as his one-and-a-half-year-old daughter. They were killed in an Israeli airstrike in February 2024 that additionally killed six of his wife's family members.

How war weapons impacted Abdalrahman's life

"I have lost most of my relatives. I have also lost my home, and I am without shelter. Inhabited areas and public facilities are being bombed indiscriminately and intensively



everywhere. There is no safe place in Gaza, and I feel that my life is in constant danger because of the Israeli military operations”.

Call for Action

ECCHR urges the German government to immediately halt arms exports to Israel, and to conduct thorough and impartial assessments of the actual and potential human rights impacts before approving any future military transfers.

As the litigation proceeds, ECCHR remains committed to ensuring that the legal frameworks that have been designed to prevent arms from fueling atrocities are meaningfully enforced. Despite the temporary ceasefire, the pursuit of justice for victims of international crimes must remain the priority.