

Ramstein on trial: Germany's role in US drone strikes in Yemen

Q&A on the legal background

1 Overview

Why the legal action?

The use of armed drones is more than just another means of warfare. Through its drone program, the US repeatedly violates human rights and international law. Many strikes take place outside of armed conflicts and thus violate the right to life. This is the case in Yemen, where the US carries out targeted killings of people they suspect of being terrorists. Drone strikes are not as accurate, as is claimed, and often kill the “wrong” person and civilians. Even when used in armed conflict, in many cases drone strikes violate international humanitarian law.

Germany assists US drone strikes by providing relevant information and granting broad permission for US military bases on German territory. The US military base Ramstein in Rhineland Palatinate plays a central role in US drone strikes. All relevant data for the combat drones passes through Ramstein.

Germany violates its constitutional and human rights obligation to protect life because it has failed to take appropriate measures to prevent the US from using its bases and facilities on German territory in drone strikes. The German government must put a halt to the use of Ramstein for drone attacks – otherwise it is complicit in the deaths of innocent people.

What do the plaintiffs expect from this case?

The bin Ali Jaber family has suffered greatly. But also, to this day, they and many other Yemenis live in constant fear of further drone attacks. They want to end the unlawful and devastating US drone attacks in Yemen.

The bin Ali Jaber family calls on Germany to take legal and political responsibility for the US drone war in Yemen and prohibit the use of Ramstein for this purpose.

Claimants Faisal, Ahmed Saeed and Khaled Mohmed bin Ali Jaber have already achieved one goal with their lawsuit: for the first time, victims of drone attacks have been heard by a court in Germany. No matter how the case continues, the lawsuit they filed is contributing to the long overdue political debate on Germany's role in US drone strikes.

What do the plaintiffs demand?

The claimants ask that Germany stop assisting US drone strikes. The German government must prevent the use of Ramstein Air Base for drone attacks, especially the attacks on the claimants' village and homeland in Yemen. In the appeal proceedings at the Federal Administrative Court in Leipzig, they are defending the Higher Administrative Court in Münster's important 2019 judgment.

What shared legal responsibility does Germany have for US drone warfare?

Several documents and witness statements show that the US Ramstein Air Base plays a central role in US drone strikes. By failing to prevent Ramstein's use for such strikes, the German government bears partial responsibility for the US' unlawful drone use.

The transfer of data that is used to control the drones occurs via Ramstein. First, fiber optic cables route data from the US, where the drone pilots are stationed, to Ramstein. From there, data travels via satellite to the drones in the relevant operational area. Similarly, data coming from the drones, including real-time surveillance photographs, is routed back to the operations teams through Ramstein. The curvature of the earth means that it is not possible to establish a direct connection between the US and the drones flying in Yemen and neighboring countries. The only US satellite relay station within the range of the operational areas is at Ramstein. US drone attacks are thus impossible without Ramstein.

In addition, Ramstein hosts one of five centers where enormous amounts of data are collected, assessed and passed on to the drone operation teams. This makes Ramstein the biggest hub for the global drone program outside the US.

How to legally assess drone strikes?

First, one has to differentiate between attacks in regions of ongoing armed conflict, such as Afghanistan, and those that take place outside conflict, such as counterterrorism operations in Yemen.

Outside of armed conflict, targeted killings using drones are legally categorized as murder, for which there is no legal justification. In the US, presidential policy guidelines on drone strikes have created a framework that clearly violates human rights, specifically the prohibition on arbitrarily depriving people of their right to life.

Even in armed conflict, attacks may only be directed at people who are actively participating in hostilities. Not every member of a conflict party may be lawfully targeted. The US disregards this principle of international humanitarian law. In its policies and practice, the US adopts a much broader understanding of who may be a legitimate military target, countering the fundamental principle of international humanitarian law – protecting civilians in all circumstances.

2 Legal aspects

What is at issue in the lawsuit?

The plaintiffs are suing Germany under administrative law. Their legal action (*Leistungsklage*) demands that Germany abide by its constitutional responsibility to protect their right to life under Article 2 of the German Basic Law (*Grundgesetz*). The plaintiffs fall under German Basic Law protection because they are directly and negatively affected by Germany's actions, namely that the country is actively allowing the use of Ramstein and not preventing the unlawful acts there.

What is the basis of the claim?

The plaintiffs base their claim against Germany on the right to life and physical integrity. Article 2 and 25 of the Basic Law require that the German government prevent violations of international law on German territory.

Where is the claim being heard?

The lawsuit is against the German government, represented in this case by the German Defense Ministry. The Defense Ministry is based in Bonn, giving the Administrative Court in Cologne jurisdiction over the initial complaint. After the court dismissed the lawsuit in May 2015, the plaintiffs appealed to the Higher Administrative Court in Münster, which issued a judgment in 2019. The German government appealed the decision, which is being heard by the Federal Administrative Court in Leipzig.

What happens next?

The Federal Administrative Court will now issue a final ruling. If the court rules in the plaintiffs' favor, Germany will have to implement the decision. If the court decides in the government's favor, the plaintiffs could lodge a constitutional complaint or take the case to the European Court of Human Rights in Strasbourg.

Why did the Higher Administrative Court in Münster overturn the lower court's decision?

The Higher Administrative Court in Münster found that the German government insufficiently fulfilled its fundamental duty to protect the plaintiffs' lives from drone attacks that violate international law. The German government's assertion that there was no reason to doubt the US drone missions' conformity with international law is untenable. Germany had to do much more to protect the plaintiffs, such as investigating doubts that the US drone missions in Yemen conformed with international law. The court ruled that the German government may need to take concrete steps to ensure that Ramstein, as it is on German soil, is only used for missions that conform with international law.

Who represents the claimants?

Sönke Hilbrans ([dka Rechtsanwälte Fachanwälte](#)), a lawyer in Berlin, represents the plaintiffs. In addition to ECCHR, Thilo Maruhn, professor of international law at Universität Gießen, and his team are supporting the plaintiffs in the hearing before the Federal Administrative Court in Leipzig.

3 ECCHR's role

What is ECCHR's role in the lawsuit?

ECCHR has worked on legal questions concerning drone attacks around the world since 2010. Together with the British NGO [Reprieve](#), which has been working on Yemen for several years, we legally analyzed the drone attacks and prepared the lawsuit filed by the bin Ali Jaber family in October 2014 in Cologne.

ECCHR staff continue to undertake research and analysis to assist the claimants in exercising their rights. ECCHR staff will also attend the oral hearing in Leipzig.

Why did ECCHR not file the lawsuit itself?

Under German law, NGOs are generally prohibited from filing lawsuits. Only those whose rights have been directly violated have standing in court.

What is the goal of this legal action?

Human rights apply universally. The US repeatedly violates fundamental human rights in the context of their global fight against terrorism. In Yemen, no civilians would be killed in drone attacks if Germany prevented the use of German territory for such strikes.

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