



## **20 years of the German Code of Crimes against International Law**

### **ECCHR statement**

To mark the 20<sup>th</sup> anniversary of the German Code of Crimes against International Law (CCAIL), the European Center for Constitutional and Human Rights (ECCHR) issues the following statement:

The German Code of Crimes Against International Law has enabled the German judiciary to prosecute international crimes since 2002. These include the most serious mass atrocity crimes – namely genocide, crimes against humanity, war crimes and the crime of aggression. By adopting the CCAIL, Germany has thus strengthened international criminal law at the national level, parallel to the establishment of the International Criminal Court. After 20 years of applying the law, however, the balance sheet is mixed. Although an important legal practice has developed in Germany in this time, crimes committed by members of powerful states and corporations are still not adequately prosecuted.

In looking back, the fact that a practice of international criminal law has emerged in Germany in recent years is a noteworthy development in its own right. After years of inactivity, the CCAIL was applied for the first time in December 2010 with the indictment of two Rwandan [FDLR rebel leaders](#). Much has happened since then, including indictments and convictions for several serious international crimes committed in Syria and Iraq. Particularly noteworthy are the [trials of former Syrian intelligence officers](#) before the Koblenz Higher Regional Court (2020–2022) and the trials for grave human rights abuses against the Yezidis by the so-called Islamic State, including the first genocide trial.

In addition, a number of proceedings have been and are being conducted against suspects residing in Germany (e.g. on Afghanistan, Sri Lanka, and [The Gambia](#)). Most recently, the Federal Public Prosecutor's Office opened a structural investigation into Ukraine, thus supporting international efforts to combat impunity. It is also welcome that Germany is taking action beyond its own borders: With an international [arrest warrant](#) against a high-ranking former intelligence chief from Syria, Germany's Federal Public Prosecutor has shown that systematic torture must be prosecuted worldwide. Investigations against high-ranking key perpetrators, even if the perpetrators are not present in Germany, are of particular importance in order to address systematic injustices under international criminal law.

However, international criminal law continues to be applied selectively in Germany, as it is around the world. There are still no investigations into international crimes committed by perpetrators from powerful states such as the [USA](#) or Israel. Survivors of US torture living in Germany have still yet to be interviewed by the German authorities. In the case of the German-Palestinian [Kilani](#) family, who died in Gaza in 2014 as a result of an Israeli air strike, not even a formal investigation was opened.



Another gap in international criminal law practice exists with regard to corporate responsibility for serious human rights violations, such as arms deliveries to Saudi Arabia in the context of the war in Yemen, delivery of [surveillance technology to Syria](#), and alleged [forced labor of Uyghurs](#) for European fashion brands. In none of these cases has the Federal Prosecutor's Office made serious efforts to investigate German companies.

Twenty years since the CCAIL's adoption, legal practice has also revealed several areas in which the code needs amendment. Particularly with respect to sexual violence, there have been subsequent reforms to the German Criminal Code and significant developments in international criminal justice that have not been reflected in the CCAIL to date. For example, with regard to the Russian war of aggression on Ukraine, not all acts of sexual violence can be investigated in Germany according to international standards. ECCHR has addressed a statement with reform proposals in this regard to the parties of Germany's governing coalition as well as to the Federal Ministry of Justice.

Our statement also includes reform proposals on survivors' rights. At present, survivors are only able to exercise their rights to a limited extent, as international crimes have not been included in the list of crimes that allow survivors to join trials as joint plaintiffs under the German Code of Criminal Procedure. The same applies to the possibilities of psychosocial and legal support for survivors. It is also important for affected communities to be able to follow the court hearings in a language they understand and to be provided with translations. In addition, trials should be documented so that they are available to future generations for commemoration and remembrance work, as well as research purposes. The German judiciary conducts proceedings under universal jurisdiction on behalf of the world community. This also requires increased efforts to make the trials accessible beyond Germany.

Even though German law enforcement authorities are well positioned to prosecute international crimes compared to other national-level authorities, there are considerable improvements that need to be made. If German authorities want to live up to the universal claim of international criminal justice, improvements must be made in the following areas:

- Investigations must also be initiated against powerful actors.
- The role of corporations and their employees in conflict situations must be a focus of investigative strategies.
- The CCAIL, the German Code of Procedure, and the Courts Constitution Act must be reformed, especially in order to be able to prosecute sexual violence appropriately and to strengthen the rights of those affected.
- Investigations must be diversified so that crimes such as sexual violence, enforced disappearance, or persecution on discriminatory grounds are also adequately investigated.

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