

No German arms to Israel: ECCHR and Palestinian human rights organizations file lawsuit against the German government

Q&A on the legal background

1. Which parties is the lawsuit directed against?

The lawsuit is directed against the Federal Republic of Germany, as represented by the Federal Ministry for Economic Affairs and Climate Action, which is responsible for export licenses under the Weapons of War Control Act. Essentially, the aim is to have the export licenses revoked for weapons shipments to Israel that have been issued since 7 October 2023 – and to achieve this immediately through provisional measures. The lawsuit concerns anti-tank weapons in particular.

2. What is the legal basis of the lawsuit?

According to Section 6 (3) No. 2 of the Weapons of War Control Act, licenses must be revoked if there is reason to believe that the Federal Republic of Germany is violating its obligations under international law by licensing arms exports. With the licenses for exports of weapons of war mentioned above, ECCHR considers it reasonable to believe that the Federal Republic of Germany is in violation of the Arms Trade Treaty, the Geneva Conventions and its obligations under the Genocide Convention – agreements that have been ratified by Germany.

On 26 January, the majority of the judges at the International Court of Justice (ICJ) stated that they considered it plausible that Israel is violating the rights of Palestinians under the Genocide Convention by its military conduct in the war. In addition, there are numerous indications of severe violations of the Geneva Conventions, such as war crimes, due to the manner in which Israel is waging war. ECCHR shares the ICJ's concern with regard to the enormous number of civilians killed and the daily death rate during the course of the Israeli military campaign. Furthermore, we support all orders from the ICJ demanding that Israel take immediate measures to improve the protection of the civilian population in Gaza, in particular to facilitate the provision of drinking water, food and medicine, as well as the work of humanitarian emergency aid services and Palestinian aid organizations. According to reports by the Israeli human rights organization Physicians for Human Rights-Israel, 470 Palestinian doctors, nurses, emergency paramedics and medical workers in Gaza were killed by Israeli shelling in just the first six months of this ongoing war.

There are therefore compelling reasons to believe that by issuing export licenses for specific weapons of war, such as anti-tank weapons, the German government is violating its obligations under international law, including the obligation under Article 1 of the Genocide Convention to prevent such acts at all times, or Common Article 1 of the Geneva

Conventions, according to which all states are obliged to respect and to ensure respect for the Geneva Convention.

3. Who are the plaintiffs and who is supporting the lawsuit?

Five Palestinian plaintiffs still living in Gaza, some of whom have lost their homes, relatives and jobs and are internally displaced persons, filed the lawsuit. They live in constant fear that they will be the next ones to be injured or killed – as a result of the use of arms supplied by Germany such as anti-tank weapons. For this reason, the five plaintiffs are also entitled to take legal action under administrative law. They are represented by the law firm Geulen & Klinger in Berlin. The lawsuit is backed by ECCHR, which has contributed its legal expertise, coordinated the representation of those affected together with the Gaza-based Palestinian Center for Human Rights, as well as contributed to fact-finding research.

From Gaza, the Palestinian human rights organizations Palestinian Center for Human Rights (PCHR) and the Al Mezan Centre for Human Rights are supporting the lawsuit. The Palestinian human rights organization Al-Haq from Ramallah in the West Bank is supporting our lawsuit and has already co-initiated a similar lawsuit in several other countries.

4. What is the aim of the lawsuit?

The aim of the lawsuit is to stop the export of weapons of war from Germany to Israel as quickly as possible and to block the issuance of additional licenses, for example regarding the request for precision ammunition for Israeli tanks. The German government must comply with its obligations under international law, and if it fails to do this, it must be forced to do so by the courts.

5. Are there also lawsuits against arms exports to Hamas?

According to various observers, the sources of weapons of the Palestinian group Hamas and other military groups in Gaza consist of a mix of self-made weapons, such as rockets, as well as imports of assault rifles and anti-tank weapons smuggled through cross-border tunnel systems or via sea routes. According to its own statements, Hamas has primarily obtained its weapons from Iran, Syria and other Arab countries. It is almost impossible to stop these shipments through legal means, due to the lack of independent courts in the respective countries. However, the International Criminal Court (ICC) does have the jurisdiction to prosecute individual arms suppliers as accessories to international crimes committed by Hamas. In addition, the ICC also has jurisdiction over the crimes committed by Hamas and other Palestinian groups in Israel on 7 October 2023. A communication has already been filed at the ICC by relatives of hostages taken from Israel to Gaza, with the aim charging the Hamas leadership with war crimes.

6. Are there similar lawsuits in other countries?

Yes. There are lawsuits underway in the UK, Australia, the Netherlands, Canada and Denmark that aim to stop arms shipments to Israel. In the Netherlands, an appellate court has

ruled in favor of the plaintiffs. The judgment is however not yet legally binding. On 12 February 2024, the Dutch Court of Appeals in The Hague prohibited the Dutch government from exporting components for F-35 fighter jets to Israel. The court was of the opinion that there was a clear risk that the Israeli F-35 fighter jets could be used for grievous violations of international humanitarian law. After Canadian arms shipments were suspended as of January 2024, the Canadian Foreign Minister decided on 20 March 2023 not to supply any further weapons to Israel. The Italian government already decided to stop supplying arms to Israel following the Hamas attacks on 7 October 2023. In addition, at a press conference on 12 February 2024, EU Foreign Affairs Representative Josep Borrell not only indirectly called on the US to suspend its arms shipments to Israel, but also advised against arms exports to Israel in general: "If one is of the opinion that too many people are being killed, maybe one should deliver fewer weapons to prevent so many people from being killed."

7. What is the connection between the lawsuit and the proceedings before the International Court of Justice (ICJ) in The Hague?

The International Court of Justice in The Hague settles disputes between states. South Africa, for example, has filed suit there against Israel for impending violations of the Genocide Convention. Nicaragua has also filed suit against the Federal Republic of Germany for its alleged complicity in Israeli violations of international law due to German arms exports and other activities. The ICJ is obliged to examine any allegation of a violation of the Genocide Convention and, if necessary, bring charges. Possible war crimes can only be examined incidentally in this context. The lawsuit before the Berlin Administrative Court refers to these proceedings, in particular to the ICJ's provisional measures with respect to Israel and its finding that there is plausible risk of the commission of genocidal acts against the Palestinian population in Gaza – decisions which are also binding for Germany.

8. What are the next steps?

Because the lawsuit also concerns an urgent request for interim legal protection, the court should normally come to a decision in written proceedings before the main proceedings take place. Due to the urgency of the situation, the proceedings will be conducted more quickly than proceedings without an urgent request. The German government will likely be called upon first to make its rebuttal.

9. What experience does ECCHR have with lawsuits under international law before German administrative courts?

ECCHR previously filed a lawsuit against the German Government before administrative courts in 2014. At the time, the case concerned the use of the Ramstein airbase in Rheinland-Palatinate by the US for its drone attacks in Yemen. In the proceedings, ECCHR supported a Yemeni family that had been adversely affected by the attacks. Although the Federal Administrative Court ruled against the plaintiffs in this case in November 2020, it found that foreign plaintiffs in Germany may take legal action for impending violations of international law, i.e. they are entitled to file suit. This decision also benefits our current arms export lawsuit against the German government. Further information [HERE](#).

10. To what extent has ECCHR already worked to stop arms exports?

ECCHR has been working to stop arms exports for several years. The cases on arms exports to Saudi Arabia for the war in Yemen are central to these efforts. The fatal results of these arms exports to a conflict region, in disregard of human rights and international legal obligations, are widely visible, especially due to the decades-long political and humanitarian crisis during the course of the Yemen war. The destruction caused by the war and the humanitarian nightmare to which the population of Yemen has been subjected are significant in terms of international criminal law, which is why ECCHR has filed criminal charges against those responsible for arms exports in recent years both at the International Criminal Court in The Hague and in Italy and France. More about our work against arms exports [HERE](#).