



EUROPEAN CENTER  
FOR CONSTITUTIONAL  
AND HUMAN RIGHTS



RETE ITALIANA  
PACE E DISARMO

## Questions & Answers \_\_\_\_\_

### **Why are the victims of the Deir Al Hajari attack taking their case to the ECtHR?**

The European Court of Human Rights rules on individual or state complaints alleging violations of the rights set out in the European Convention on Human Rights, including the right to life (Article 2). In this case against Italy, the applicants allege that the Italian state violated their right to life. They claim that, following the criminal complaint [they filed in 2018 to the Prosecutor in Rome](#), Italian authorities failed to open an investigation into the crimes of homicide and personal injury of their relatives in Yemen. They argue that this refusal to open an investigation is contrary to Italian constitutional law and the principles laid down by the ECtHR in the leading case *Öneryildiz v. Turkey*.

Furthermore, the claimants allege that the Italian authorities failed to suspend and revoke the authorization for the export of bombs to Saudi Arabia and the United Arab Emirates, despite their awareness of the clear risk that such weaponry could be used in the commission of war crimes and in violation of international human rights law, including the right to life, as was confirmed by the Judge for Preliminary Investigations (GIP) in Rome in March 2023.

To comply with their obligations under the ECHR, European states must guarantee effective investigations into the responsibility of those who have potentially contributed to the commission of war crimes in Yemen through the export of European armaments. The application offers the ECtHR the unprecedented opportunity to ensure that European states provide access to justice for victims of war crimes committed with European weapons.

### **How does the application to the ECtHR relate to the proceedings at the ICC?**

The Deir Al-Hajari strike is the subject of an [ICC communication](#) submitted on the basis of Art. 15 of the Rome Statute by the organization Mwatana for Human Rights, ECCHR and Rete Pace e Disarmo to the Office of the Prosecutor of the International Criminal Court (OTP). In this ICC communication, the submitting organizations request that the OTP open an investigation into the potential complicity of arms traders from our European countries and the United Kingdom, including RWM Italia, in war crimes allegedly committed by the Saudi-led Coalition in Yemen since March 2015. At this point, the ICC has opened a preliminary examination – the first step in Art. 15 Communications.

The application to the ECtHR differs substantially from the communication submitted to the ICC with respect to the parties involved, the relevant legal provisions applicable, and the type of the redress sought. While the ECtHR application concerns the responsibility of the Italian state for the violation of its duty to protect the right to life and to conduct effective investigations into its potential violation by public or private actors, the ICC communication deals with the criminal responsibility of state officials and corporate actors for their contribution to war crimes.

### **What is the applicable legal and regulatory framework for arms exports in Italy?**

Italian arms exports are regulated by domestic Italian law (Law 185/1999), the European Common Position on arms export controls (2008), and the Arms Trade Treaty. These legal frameworks prohibit arms exports to countries where there is a clear risk that they might be used for internal repression or to commit serious violations of international humanitarian or international human rights law. The Arms Trade Treaty was ratified by Italy in April 2014.

In the ruling of 10 March 2023, the Judge for Preliminary Investigations in Rome decided to dismiss the criminal proceedings brought by the Husni family against the Italian Unit for the Authorization of Armament Material (UAMA) and the CEO of the arms manufacturer RWM Italia S.p.A., Fabio Sgarzi. In this ruling, the judge held that UAMA directors were “*certainly aware of the possible use of the arms sold by RWM to Saudi Arabia in the conflict in Yemen to the detriment of civilians.*” Nevertheless, “*they continued to issue arms export licenses to the company RWM even in the following years, in violation of at least Art. 6 and 7 of the Arms Trade Treaty (ATT), ratified by Italy in April 2014, a binding legal instrument, establishing that a state must not authorize arms exports if it is aware of their possible use against civilian targets.*”

See ECCHR’s preliminary legal analysis of this ruling [here](#).

---

**Last updated: July 2023**

European Center for Constitutional and Human Rights (ECCHR) e.V.

[www.ecchr.eu](http://www.ecchr.eu)