

ICC must investigate arms company executives linked to Yemen war crimes

human rights risk very high

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USPA NEWS - 12 December 2019 : ICC must investigate arms company executives linked to Yemen war crimes allegations

The Prosecutor of the International Criminal Court (ICC) must investigate the role of executives of European arms companies and licensing officials in violations of international humanitarian law that could amount to war crimes in Yemen, Amnesty International said today, as it joined the European Centre for Constitutional and Human Rights (ECCHR) in an official request to the ICC.

The ECCHR, supported by five NGOs, has submitted a 300-page Communication and supporting evidence to the ICC's Office of the Prosecutor (OTP), calling on the ICC to investigate whether high-ranking officials, from both European companies and governments, could bear criminal responsibility for supplying arms used by members of the Saudi Arabia/UAE-led Coalition in potential war crimes in Yemen. It requests an investigation into their potential complicity in 26 specific airstrikes which unlawfully killed or injured civilians, and destroyed or damaged schools, hospitals and other protected objects.

"An ICC investigation would be an historic step towards holding arms company executives accountable for their business decisions. The reality is that everybody involved in selling weapons to the Saudi Arabia/UAE-led Coalition bears some responsibility for how those weapons are used. This includes company executives as well as government officials," said Patrick Wilcken, Arms Control Researcher at Amnesty International.

"The ICC Prosecutor can send a clear message that it will hold corporate actors to account if they are involved in the most serious crimes."

Despite mountains of evidence of serious violations in Yemen built up over nearly five years of the conflict, some European states have continued to export to members of the Coalition, which has bombed schools, houses and hospitals. These exports are a flagrant violation of the international Arms Trade Treaty, as well as European and domestic laws.

Governments are responsible for approving export licences, and many arms companies argue this exempts them from responsibility. But government approval does not absolve company executives from discharging their own responsibilities to respect human rights across their business operations, including by not exporting weapons that risk being used to commit crimes under international law.

This excuse is especially weak when governments issuing licences are themselves being challenged over their decisions to export weapons which risk being used in possible war crimes and other violations.

"Any company executive can read a newspaper and understand that the human rights risk assessments of some European governments have failed catastrophically," said Patrick Wilcken.

"Company executives have had ample time and access to plenty of reliable information to reassess their decisions to supply the Coalition in the light of the horrific events in Yemen. Hiding behind flawed government decision-making is not good enough - now they could face criminal charges before an international criminal court."

The Communication focuses on the role of the following companies: Airbus Defence and Space S.A.(Spain), Airbus Defence and Space GmbH (Germany), BAE Systems Plc. (UK), Dassault Aviation S.A. (France), Leonardo S.p.A. (Italy), MBDA UK Ltd. (UK), MBDA France S.A.S. (France), Raytheon Systems Ltd. (UK), Rheinmetall AG (Germany) through its subsidiary RWM Italia S.p.A. (Italy), and Thales France.

Background information

The ECCHR and its partners (Mwatana for Human Rights, Amnesty International, Campaign Against Arms Trade (CAAT), Centre Delàs and Rete Disarmo) are calling on the OTP to investigate the responsibility of high level corporate officers, as well as high-

ranking government officials from arms export licensing authorities, for their potential complicity in these alleged crimes under international law.

The ECCHR Communication focuses on companies from Spain, Germany, France, Italy and the UK, the biggest European exporters of arms to the Coalition. It provides factual information on 26 air strikes - on residential buildings, schools, hospitals, a museum and world heritage sites - which may amount to war crimes under the Rome Statute of the International Criminal Court.

The ICC may exercise its criminal competence over genocide, crimes against humanity and war crimes committed in any territory subject to the jurisdiction of a state party (all EU states are parties to the Rome Statute) or over their nationals, wherever crimes are committed.

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