



Palestinian Human Rights Organisations Welcome Dutch Court Decision Imposing a Halt on the Export of F-35 Fighter Jet Parts to Israel Due to the Clear Risk of International Law Violations

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17. Feb 2024



Al-Haq, Al Mezan Center for Human Rights, and the Palestinian Centre for Human Rights (PCHR) welcome the Dutch appellate court's ruling to ban further exports of F-35 fighter jet parts to Israel in light of the clear risk that these exports contribute to serious violations of international humanitarian law. On 4 December 2023, Oxfam Novib (the Dutch

branch of Oxfam) PAX (the "[largest peace organisation in the Netherlands](#)") and The Rights Forum [demanded](#) "the immediate cessation of the supply of parts for Israeli F-35 fighter jets" based on the complicity of the Netherlands in possible war crimes. They [argued](#) that the "United States-owned" fighter jet parts stored in a Dutch warehouse and shipped by the Netherlands to Israel might be used in attacks against Palestinians in Gaza that may amount to war crimes, such that these parts "make it possible for real bombs to be dropped on real houses and on real families". On 12 February, the Dutch Appeals Court overturned the lower court's [dismissal](#), in which the lower court ultimately decided that "judges should leave the minister a large amount of freedom" in decisions regarding arms exports. The Appeals Court overturned this ruling, [banning](#) further exports of F-35 parts to Israel within seven days, stating that "it is undeniable that there is a clear risk that the exported F-35 parts are used in serious violations of international humanitarian law". As mentioned above, over the past four months, our organisations Al-Haq, Al Mezan, and PCHR, and UN agencies and [experts](#), have been exposing Israel's relentless bombing of Gaza as intentional mass killings and the creation of conditions on the ground rendering Gaza uninhabitable. To date, Israel has killed at least

[28,340](#) Palestinians in Gaza since 7 October 2023, not including thousands who remain unaccounted for because they are trapped under the rubble. Furthermore, “[policies](#) calculated and deliberately imposed by Israel left 2.3 million Palestinians without access to life-sustaining supplies, grappling with a collapsed healthcare and food system, and vulnerable to the spread of diseases, life-threatening injuries, illnesses, and famine.” Against this backdrop and in light of Israeli officials’ stated [intention](#) to expand its operation in Rafah, there is absolutely no reason to believe that Israel will now abide by international humanitarian law and do its utmost to spare civilians. This is all the more evident as Israel is currently attacking Rafah, the last remaining “safe” area in Gaza, where [1.4 million](#) Palestinians have been forcibly displaced and are seeking shelter following Israel’s terrorising campaign across the whole Gaza Strip, which is likely to lead to mass killings of Palestinians on a much greater scale than seen in the previous four months. It is alarming that the Dutch government [intends to appeal](#) the Dutch appellate court’s ruling to stop the exports of F-35 fighter jet parts to Israel on the basis that such exports possibly contribute to violations of international humanitarian law. Under [Article 6\(3\) of the Arms Trade Treaties \(ATT\)](#), State Parties, including the Netherlands, must not authorise any transfer of conventional arms if they have knowledge at the time of authorisation that they would be used in the commission of genocide, crimes against humanity, grave breaches of the 1949 Geneva Conventions, attacks directed against civilians or civilian objects, or other war crimes as defined by international agreements to which they are a Party. Our organisations seize this occasion to once again remind Third States, including the Netherlands, of their [obligations](#) under Article 40(1) and (2) of the Draft Articles on Responsibility of States for Internationally Wrongful Acts: in the event of a breach of a peremptory norm of international law, which includes the prohibition against genocide, Third States have the obligation to neither recognise an illegal situation arising from a serious breach of international law, nor to render assistance in maintaining such a situation. Furthermore, Third States are obligated to act and collaborate towards ending this illegal situation. State Parties to the Convention on the Prevention and the Punishment of the Crime of Genocide must also take all measures within their power to “[prevent and end genocide](#) and ensure they are not complicit in genocide, including by pressuring Israel to cease its military attacks in and against Gaza, imposing a [two-way arms embargo](#) and sanctions on Israel, ceasing diplomatic protection, and prosecuting or extraditing Israeli officials”. Furthermore, The International Committee of the Red Cross’ authoritative commentary to Common Article 1 of the Geneva Conventions of 1949 confirms the obligation of States to refrain “from transferring weapons if there is an expectation, based on facts or knowledge of past patterns, that the weapons would be used to violate the Conventions.” These obligations were strengthened on 26 January 2024 when the

International Court of Justice (ICJ) determined the plausibility that Israel is carrying out genocide against the Palestinian people in Gaza and issued provisional measures in the case *South Africa v. Israel*. These measures include ordering Israel to take all measures within its power to halt the commission of genocidal acts with immediate effect, and to take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in Gaza. These constitute an “implicit call to ceasefire” to the extent that the “Court’s order can only be effective with a ceasefire”. Third State implementation of ICJ provisional measures is mandatory under Article 41 of the ICJ Statute. In light of the above, we encourage civil society organisations in other States to follow the Dutch path and take legal action against their governments to prohibit arms exports to Israel that will foreseeably be used to kill more Palestinians. As Israel is entering one of the last stages of its genocidal military campaign in Gaza by attacking the 1.4 million Palestinians in the overcrowded Rafah District, we stress that the survival of a whole people is now at stake.

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