

Summary

NOTIFICATION OF CRIMINAL ACTS TO THE NORWEGIAN NATIONAL PROSECUTOR'S OFFICE

Complicity in Crimes against Humanity Gaza 2023

On 28 November 2023, [ICJ Norway](#) and [Defend International Law](#) filed [a complaint](#) with Norwegian prosecutors against Israeli leaders for complicity in crimes against humanity. The report is submitted on behalf of about 270 Norwegian citizens and foreigners residing in Norway (“the Norwegians”) who stayed in Gaza before and after 7 October 2023.

ICJ Norway is the Norwegian branch of the International Commission of Jurists, while Defend International Law is an initiative of 44 Norwegian jurists. Both are independent and autonomous, and work to promote respect for international law, the rule of law and human rights, including equal protection under law and equal enforcement of common standards.

The alleged criminal offences have been reported to the National Prosecutor's Office (NAST), which is specialized in international crimes such as genocide, crimes against humanity and war crimes. Crimes against humanity are widespread or systematic attacks in the form of serious human rights violations directed against a civilian population.

The complaint is directed against the Israeli Defence Minister Yoav Gallant, member of Israel's War Cabinet Benjamin Gantz, and Chief of General Staff, Herzl Halevi. The notification concerns complicity in the following crimes committed against the civilian population of Gaza:

- A. Crime against humanity, in the form of inhumane acts,**
- B. Crime against humanity, in the form of murder,**
- C. Crime against humanity, in the form of extermination,**
- D. Crime against humanity, in the form of forcible transfer of population,**
- E. Crime against humanity, in the form of persecution.**

The legal basis for the alleged criminal acts is Section 102 of the Norwegian Criminal Code, specifically letter a (killing), letter b (extermination), letter d (forcible transfer of population), letter h (persecution), and letter k (inhumane act), see also Section 15 (complicity) and Section 5 (jurisdiction). The reported crimes against humanity are all considered to have been fully completed as criminal offences within 15 November 2023.

In principle, the complaint has been filed on behalf of all Norwegian citizens and foreigners residing in Norway who have been in Gaza as of 7 October 2023 onwards, in principle also on behalf of the whole civilian population in Gaza. At the same time, however, the complaint has

been filed specifically on behalf of the persons who have so far signed a documented power of attorney to ICJ Norway and Defend International Law to notify the NAST and provide reasons for the complaint on their behalf. The crimes of Hamas are not covered by Norwegian jurisdiction since Norwegian citizens have not been direct victims of these acts, but the attack directed against the civilian population in Israel on 7 October is discussed in the report in relation to possible grounds for excluding criminal responsibility based on self-defence.

Section 102 of the Criminal Code is included in Chapter 16, concerned with genocide, crimes against humanity and war crimes. The penalty for crimes against humanity is imprisonment up to 30 years. This is the strictest possible punishment of the Criminal Code.

Section 5 of the Criminal Code determines Norwegian criminal jurisdiction. In general, acts committed abroad by foreign nationals fall outside the scope of the Code. Such crimes may nevertheless be prosecuted in Norway “if the act carries a maximum sentence of imprisonment for 6 years or more and is directed against someone who is a Norwegian citizen or is resident in Norway”. This provision is applicable in this case. The alleged criminal acts pursuant to Section 102 have also been directed against the 270 Norwegians who were present in Gaza before 7 October, about half of them children. As of 28 November, about 60 Norwegians are for various reasons still within Gaza.

The Norwegian citizens are a small number of all those who have been directly affected by the attack on the fundamental human rights of the civilian population. Several of the alleged crimes against humanity have been committed against the entire Palestinian population of approximately 2,2 million people. What is unique, is that Gaza has become one continuous crime scene of such violations, through the combination of Israel's blockade and the extensive bombing of Gaza, with the serious consequences this has had for so many innocent civilians.

As of 15 November, the reported number of people killed and injured in Gaza amounted to about 40,000 people out of a population of about 2,2 million. This corresponds to almost two per cent of the population. In comparison, this would be tantamount to more than six million US citizens killed and injured in a few weeks. Moreover, about 1,7 million Palestinians in Gaza have reportedly been displaced from their homes and resident areas within Gaza. The situation has been and is still critical regarding diseases and lack of sufficient food supply, clean water, fuel, medicines and health care for sick and injured persons. The number of civilians killed, injured and seriously ill will continue to rise if the blockade and bombing continue. The statement by Antonio Guterres 20 November 2023, that the killing of civilians in Gaza is “unparalleled and unprecedented in any conflict since I have been Secretary-General”, is telling. How these acts would not constitute crimes against humanity is indeed difficult to understand, and the most basic legal standards of humanity must be the same for all.

Apart from this brief summary, the complaint provides a thorough and detailed account of the factual and legal basis for the alleged crimes. The full report is publicly available on our web sites, so far however only in the original Norwegian version while a copy in English may appear later.

Oslo, 28 November 2023