

## **Crimes in Syria: The neglected atrocities of Afrin**

### **Q&A on the legal background**

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#### **What is the case about?**

The criminal complaint filed by ECCHR and Syrians for Truth and Justice (STJ) addresses the human rights violations that Islamist armed militias have been committing in the northern Syrian region of Afrin since January 2018 with the knowledge and support of Türkiye. These crimes include the persecution and displacement of the predominantly Kurdish civilian population, the violent repression of the population through detention and torture, targeted killings and the destruction of cultural heritage sites. The atrocities committed by various militias under the umbrella of the Syrian National Army (SNA), in particular the Al-Hamza Division, the Ahrar al-Sharqiya, the Sultan Murad Division and the Suleiman Shah Brigade, are the subject of the criminal complaint. ECCHR and STJ are supporting six survivors of these international crimes.

#### **In what context did the crimes take place?**

During the course of the Syrian conflict, Kurdish armed forces of the Partiya Yekîtiya Demokrat (PYD), established an autonomous administrative zone in northern Syria (AANES) in 2012, which was expanded to include Afrin in 2014. The Kurdish YPG/YPJ units of the PYD, in cooperation with the US-led “Global Coalition Against Daesh,” were a prominent and decisive Syrian force in the fight against the terrorist militias of the “Islamic State.” For four years, Afrin served as a relatively safe region for people seeking refuge from other parts of the country. Between 2016 and 2019, Türkiye conducted three successive military offensives in the region, in order to militarily reduce the size of the Kurdish autonomous territory bordering Türkiye. The second Turkish-led so-called "Operation Olive Branch" that began in January 2018 marks the start of the timeframe of perpetration of the present criminal complaint. The operation aimed to gain

military and political control over the Afrin region, which Türkiye retains to this day and to expel the predominantly Kurdish population.

The crimes committed by the militias in Afrin constitute a systematic attack on the predominantly Kurdish civilian population and, thus, also on the Kurdish character of the region. While Afrin was historically considered the most densely Kurdish populated part of Syria, Kurds have become an ever-shrinking minority after the systematic expulsions. The new administration also established settlements to resettle Syrians in Afrin who were displaced from other parts of the country, while continuing the displacement of its local population.

## **What role does Türkiye play?**

During the Syrian civil war, Türkiye continuously adapted to the political and military circumstances. This was particularly the case in the Kurdish autonomous zone on Türkiye's southern border. Türkiye considers the PYD and, in particular, its armed wing, the YPG/YPJ, to be an extension of the Kurdistan Workers' Party (PKK) and, hence, a terrorist organization. It thus considers the establishment of the autonomous zone to be the creation of a "terrorist corridor" along the southern border. Türkiye also condemned the close military cooperation between the US and Syrian-Kurdish forces. Between 24 August 2016 and 29 March 2017, the Turkish military launched its first military operation with the declared aim of cleansing the areas in northern Syria of "terrorist groups," which primarily referred to the Kurdish presence. Armed Islamist militias allied with Türkiye under the umbrella of the SNA played a key role in the military operations.

## **Does Germany carry political responsibility in this case?**

Like Türkiye, Germany is part of the NATO political and military alliance and is therefore subject to the regulations of the North Atlantic Treaty. The member states are obliged to work toward peaceful solutions to conflicts. The German government must at least make this clear to Türkiye. In order to be able to credibly protest against the behavior of other states that violates international law, such as Russia's crimes in Ukraine, the German government cannot remain silent on the actions of its NATO partner Türkiye in northern Syria. In this respect, ECCHR opposes double standards on the part of Western states. According to media reports, Türkiye is also using German-made tanks for its military operations in northern Syria that are in violation of international law.

## **Is the complaint a campaign against Türkiye?**

No. Türkiye is not the target of the complaint. The alleged perpetrators of the crimes that are the subject of the criminal complaint by ECCHR and STJ are part

of local armed militias that are supported and financed by Türkiye. The fact that they cooperate with Türkiye, a NATO member state, cannot justify the lack of prosecution of the crimes. International law must be applied equally to all responsible actors, regardless of their political affiliation.

## **In what way is the criminal complaint connected to the political conflict surrounding Syrian-Kurdish sovereignty in the region?**

The complaint is in no way connected to the efforts of the Kurdish population in the region to achieve domestic self-government or political autonomy. All crimes under international law against civilian populations worldwide must be investigated and, when necessary, prosecuted. With regard to Syria, we have been demanding this since the beginning of the democratic uprising. This includes the prosecution of Syrian state torture, which has already happened, along with the systematic violence against ethnic minorities such as the Kurds. Particularly in the context of the Syrian war atrocities, international criminal law must be applied to all groups of perpetrators. In this particular case, the crimes are primarily directed against the Kurdish population. They are being forcibly expelled from their homes. Many (mainly Kurdish) civilians are subjected to illegal detention, torture and sexual violence. Their homes and farms have been illegally occupied by members of the armed militias since the military invasion. So far, these acts have not or have only rarely been addressed. They quickly receded into the background of public discourse and are a blind spot in investigations into crimes against international law in Syria – even though they also constitute crimes under international law that must be investigated.

The Yazidis, for example, who live alongside other minorities in Afrin, are also affected by these crimes. They have often been persecuted on the basis of several kinds of discrimination – such as religion, ethnicity and/or gender. As a result, the survivors' experiences of injustice are diverse, and the consequences of the crimes have multiple dimensions.

## **What is the legal basis for German proceedings on the actions of armed groups in northern Syria?**

The complaint is based on the principle of universal jurisdiction. According to this principle, which was enshrined in the German Code of Crimes against International Law (CCAIL) in 2002, grave crimes like genocide, war crimes and crimes against humanity affect the international community as a whole. If states in proximity to the crime or international legal forums are unavailable for criminal prosecution, universal jurisdiction offers an alternative path to prosecution. In this case, Germany (and other states where the principle is applied) is allowed to

prosecute international crimes regardless of who commits them, where they are committed, or against whom they are committed.

## **What is a structural investigation?**

In a structural investigation, a preliminary investigation is conducted without referring to specific individuals if there is reasonable suspicion of a crime. This means that the Federal Public Prosecutor General and their office investigate and secure evidence on crime complexes, structures and suspected groups, in order to prepare for future trials against individuals.

With the complaint, ECCHR and STJ aim to intensify the Federal Public Prosecutor General's existing structural investigation into non-state armed actors in Syria and to use it to further clarify – and individualize – the specific crimes. In addition, we are calling for the initiation of person-specific investigations into the leaders of the militias committing the crimes in Afrin.

## **Why was it not possible to bring charges before the International Criminal Court?**

Türkiye has not signed the Rome Statute of the International Criminal Court (ICC) and is therefore not subject to its jurisdiction. Syria is also not a state party to the ICC, and China and Russia are also blocking a referral to the ICC by the UN Security Council. This means that proceedings outside Syria and Türkiye are currently only possible in third countries under the principle of universal jurisdiction or in cases where third countries are responsible because their citizens were involved in the crimes in Syria either as victims or perpetrators.

## **Who are the affected parties?**

The criminal complaint is based on information provided by survivors of the crimes and other witnesses. The survivors are Syrian nationals who live in exile in Germany or Europe. They are victims of displacement, arbitrary detention, torture and sexual violence. In the event that their cooperation with German security services becomes known, they fear violent repression by the occupying powers against themselves and their relatives still living in Syria.

## **What role does ECCHR play in the criminal complaint?**

Together with STJ, ECCHR is filing the criminal complaint on behalf of those affected. ECCHR staff support those affected in exercising their rights through research and analysis. Together with Syrian partner organizations and partner lawyers, ECCHR is supporting those affected by international crimes committed in the context of the Syrian civil war in several cases.

## How does the Afrin complaint relate to ECCHR's previous work on human rights crimes in Syria?

ECCHR has been working on the investigation of crimes in Syria since 2012. From April 2020 to January 2022, the Koblenz Higher Regional Court conducted the [world's first trial on state torture in Syria](#), in which ECCHR supported 29 torture survivors from Syria, 14 of them as joint plaintiffs. Criminal complaints in Germany, Austria, Sweden and Norway have contributed to the issuance of arrest warrants against [Jamil Hassan](#), among others. ECCHR is also supporting those affected by [sexual violence](#) with an additional criminal complaint against officials of the Syrian intelligence services. European companies are also the focus of legal interventions, such as the [French-Swiss company Lafarge](#), which apparently entered into agreements with IS to maintain its factory operations in northeastern Syria from 2012 to 2014. With its actions, Lafarge allegedly aided and abetted war crimes and crimes against humanity.

While the crimes of many actors have become the subject of investigations over the last ten years, the actions of Türkiye and its allies in Syria remain largely a blind spot. ECCHR is therefore calling for the crimes of all actors – including Türkiye – to be addressed. Armed groups are carrying out widespread and systematic attacks against the civilian population in Afrin, especially against Kurds. These groups are supported by Türkiye, which, in many cases, cooperates directly in the commission of these crimes. The crimes must become a focal point in the investigations by the German Federal Public Prosecutor's Office.

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