Respect for International Law

A Declaration by German Speaking International Law Scholars

Open Letter by German Speaking International Law Scholars

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We teach and research international law. Despite holding different views on individual issues and diverging assessments of specific conflicts, we are united by the following convictions:

Observance of international law is more important than ever in the current situation in order to maintain and restore world peace. This is especially true for Germany. Germany's legitimacy on the world stage after the crimes of the Holocaust and the German war of aggression, which became the Second World War, has always been based decisively on Germany's decision to not only comply with international law, but also to protect and promote it. The German Basic Law, from its preamble to its last article, is shaped by a commitment to international law. We therefore call for compliance with Germany's obligations under international law. Especially at a time when international law is being broken by powerful states, we urgently appeal to decision-makers at federal and state levels not to jeopardize Germany's commitment to international law.

We therefore welcome Germany's and Europe's support for Ukraine, which has been the victim of a war of aggression in violation of international law, and agree that this support should be continued and strengthened by the future German government in cooperation with other states given that the United States of America has turned its back on Ukraine. Territorial changes cannot occur without the consent of the affected state and need to respect the right of self-determination of peoples. This also rules out recognizing bilateral treaties signed under duress.

We stress that Germany has committed itself to participating in international institutions on the basis of international law and the Basic Law. Arrest warrants issued by the International Criminal Court must be respected and executed by state parties. This applies to Russian President Vladimir Putin, but also to Israeli Prime Minister Benjamin Netanyahu, regardless of whether we consider an arrest warrant issued by the International Criminal Court to be correct in terms of its content and regardless of our assessment of the scope of personal immunity. Inviting Netanyahu to Germany with the assurance of immunity would violate international and German law, which, with the approval of all democratic parties since the last legislative period, provides for the exclusion of functional immunity for crimes under international law (Gerichtsverfassungsgesetz, Sec. 20(2), 2nd sentence).

Furthermore, we consider it essential that the Federal Government, in view of the International Court of Justice's July 2024 advisory opinion on the illegality of the Israeli occupation, to which the Federal Foreign Office has affirmatively referred, and its assurances made before the International Court of Justice, ensures that no weapons are supplied to Israel that are used in violation of international law.

In the attempts to prevent the UN Special Rapporteur Francesca Albanese from speaking at universities, we see – regardless of whether we agree with Albanese's analyses and some controversial statements in the past – a violation of the freedom of expression and academic freedom enshrined in the Basic Law and also in international human rights instruments. Furthermore, Germany's constitutionally enshrined membership of the United Nations requires respect for its institutions, including the special representatives it mandates. In this regard, we agree with the criticism voiced by the European Society of International Law and our colleagues at the Free University of Berlin.

These attacks on international law in the context of the Middle East conflict have parallels in the debate on asylum law. With all due respect for different views on asylum policy, obligations under international and European law must be respected when dealing with refugees. This includes compliance with the European Convention on Human Rights and EU law, the rulings of the European Court of Human Rights, and the Court of Justice of the European Union.

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