



Dr Alexander S. Neu, MdB, Platz der Republik 1, 11011 Berlin

Federal Prosecutor General (*Generalbundesanwalt*)  
of the German Federal Court of Justice  
(*Bundesgerichtshof, "BGH"*)  
Brauerstraße 30  
76135 Karlsruhe

in advance by fax: + 49 (0)721 – 8191 8590

**Dr Alexander Soranto Neu**  
Member of the German Bundestag

**Dr Diether Dehm**  
Member of the German Bundestag

**Heike Hänsel**  
Member of the German Bundestag

**Andrej Hunko**  
Member of the German Bundestag

**Zaklin Nastic**  
Member of the German Bundestag

**Kathrin Vogler**  
Member of the German Bundestag

**Andreas Wagner**  
Member of the German Bundestag

**Hubertus Zdebel**  
Member of the German Bundestag

Platz der Republik 1  
11011 Berlin

Tel: +49 (0) 30 227-74328  
Fax: +49 (0) 30 227-76328  
E-mail alexander.neu@bundestag.de

Berlin, 27.02.2020

**Criminal Complaint against members of the German Federal Government and other parties for aiding by omission the killing of Qassem Soleimani and others**

Dear Sir or Madam,

We hereby file the following

**Criminal Complaint**

against

Federal Chancellor (*Bundeskanzlerin*) Dr Angela Merkel, Federal Minister for Foreign Affairs (*Bundesminister des Auswärtigen*) Heiko Maas, Federal Minister of Defence (*Bundesministerin der Verteidigung*) Annegret Kramp-Karrenbauer, Federal Minister of the Interior (*Bundesminister des Innern*) Horst Seehofer, other members of the German Government and all other parties

for

aiding by omission the murder of Qassem Soleimani, Abu Mahdi al-Muhandis and other persons pursuant to sections 211, 27, 13 of the German Criminal Code (*Strafgesetzbuch, "StGB"*), in addition to any other relevant offences/violations.



## Grounds:

### 1.

In the early morning hours of 3 January 2020, Iranian Quds Force commander, Qassem Soleimani, was killed in a drone strike near Baghdad International Airport. Soleimani, together with Iraqi military commander Abu Mahdi al-Muhandis, was killed when his convoy was struck by three missiles. At least one airport employee who happened to be in the vicinity and four other persons in the convoy, including bodyguards and drivers, also lost their lives. According to corroborating media reports, the strike was carried out by the U.S. military at the order of U.S. President Donald Trump. The missiles were fired from an MQ-9 Reaper drone.

(See: <https://www.tagesschau.de/ausland/angriff-flughafen-bagdad-101.html>; <https://www.zeit.de/politik/ausland/2020-01/irak-angriff-flughafen-raketen-beschuss-bagdad-tote-verletzte>; <https://www.sueddeutsche.de/politik/qassim-soleimani-iran-usa-1.4744400-0>; <https://www.spiegel.de/politik/iran-rekonstruktion-der-toetung-von-qasem-soleimani-a-393afdbc-f714-4ae6-bb45-61bb855f76d4>; <https://www.forbes.com/sites/sebastienroblin/2020/01/04/did-the-pentagon-use-new-joint-air-to-ground-missiles-in-killing-of-general-soleimani/#1b9307234bb6>)

### 1.1

#### The U.S. military base at Ramstein was used in the drone strike

U.S. combat drones are not piloted directly from the theatres of operation in the Near and Middle East. Instead, the command signals for the U.S. drone strike were presumably relayed via a satellite relay station located on German territory, namely the U.S. air base at Ramstein in the German state of Rhineland-Palatinate. Due to the curvature of the Earth, this is currently the only way for U.S. Forces to transmit command signals from the U.S. to Reaper drones in Iraq and receive corresponding signals and sensor data from the drones.

The German Higher Administrative Court of North Rhine-Westphalia (*Oberverwaltungsgericht*, "OVG") ruled on this practice by the U.S. military in Yemen as well as in other U.S. theatres of operation in the Near and Middle East in its decision of 19 March 2019 (4 A 1361/15) in which it held:



*"The court finds that the U.S. is conducting drone missions in Yemen (as well) using technical installations at Ramstein Air Base with its own personnel stationed there. In particular, the court is firmly convinced that [...] the data stream for remote control of the drones from the U.S. is relayed in real time via a satellite relay station in Ramstein, which functions as a vital link between the pilots in the U.S. and the drones in the theatre of operation, including in Yemen.*

*The [German Government] had already been informed by the U.S. in April 2010 and then again in November 2011 about the planned construction of a satellite relay station in Ramstein for the purpose of piloting drones, including combat drones, outside the U.S. The [German Government] does not deny that such a relay station has since been built and put into operation. One journalist reported that construction was to be completed by the end of 2013. [...]*

*In 2016, U.S. Embassy representatives informed the German Federal Foreign Office that Ramstein Air Base would be involved in signal transmission during missions of unmanned air vehicles (UAVs) and in this context stated,*

*'...that in 2015, a device for improving the already existing telecommunications equipment had been completed in Ramstein'.*

*The installation is visible in aerial photographs available online.*

*[...]*

*The key role of the satellite relay station in Ramstein as a means of piloting armed drones in the Near and Middle East as well as on the African continent in real time from the U.S. has long been a subject of investigative media reports. Referring in particular to secret U.S. documents leaked to the public, it was reported that the signals for piloting the drones were transmitted from command centres on military bases in the U.S. via a transatlantic fibre optic cable to the satellite relay station in Ramstein. From there, the signals were reportedly relayed via satellites to the drones in the theatre of operation. The data stream, including video images recorded by the drone, then flowed back to the command centre in the U.S. via the same channel.*

*Drone missions in their current form would not be possible without Ramstein.*

*The U.S. has apparently never denied the factual accuracy of these publicly discussed reports. On the contrary, statements made by representatives of the U.S. Embassy in the Federal Republic of Germany, which the then Minister of State at the Federal Foreign Office (Staatsminister im Auswärtigen Amt) informed the German Bundestag about in a Q&A session on 30 November 2016, suggest that the reports are in essence factually correct. The Minister of State*



*stated that the U.S had once again confirmed that UAVs were neither launched nor piloted from Ramstein. Admittedly, no one had claimed otherwise in public reporting or in the parliamentary debate. Moreover, continued the Minister of State, the U.S. had stated*

*'that U.S. global communications channels supporting UAVs also included telecommunications stations in Germany, from which the signals were relayed. UAV missions were flown from various locations, using various telecommunications relay links, some of which operated in Ramstein. It also stated that in 2015 a device for improving the already existing telecommunications system had been completed in Ramstein' (BT Minutes of plenary proceedings 18/205, p. 20452 et seq.).*

*The factual correctness of the quoted media reports is further supported by the statements of a former member of the U.S. Air Force who was examined as a witness by the NSA Inquiry Committee of the 18th German Bundestag and who by his own account was involved in numerous armed drone missions in Yemen and elsewhere as a member of a drone pilot team. That witness testified that the relay station in Ramstein was the technical element enabling the U.S. Air Force to pilot drones operating for instance in the Middle East via satellite from the U.S.*

*Ramstein was involved in all U.S. drone missions across the world.*

*All data was transmitted via the relay station in Ramstein because there was a fibre optic cable connection directly to the Pentagon there. [...]*

*It was also his assessment that worldwide drone missions could not be readily conducted without the relay station in Ramstein (see BT Printed Papers 18/12850, p. 1111 et seq., 1169 et seq.).*

*The vital role that the relay station in Ramstein plays in performing worldwide drone missions is evidenced by the following statements made by the U.S. Armed Forces in February 2010 in the context of a project justification report, which was available to the court and is correctly quoted by the NSA Inquiry Committee in its final report (BT Printed Papers 18/12850, p. 1170):*

*'Without these facilities, the aircraft will not be able to perform their essential UAS missions within the EUCOM, AFRICOM and CENTCOM AOR, UAS weapon strikes cannot be supported and necessary intelligence information cannot be obtained.'*

*The report goes on to say:*



*'Unmanned aerial systems (UAS) require and adequate-sized and configured facility to ensure maximum mission effectiveness during weapons engagement and reconnaissance missions in support of the war-fighters. The construction of a Satellite Antenna Relay facility and compound is required in order to support remote-controlled aircraft command links, connecting CONUS-based ground control stations/mission control elements with UAS aircraft in the AOR. Therefore, completion of this project will satisfy the long-term SATCOM Relay requirements for Predator, Reaper and Global Hawk, eliminating current temporary set-ups. [...]*

*Predator (MQ-1), Reaper (MQ-9) and Global Hawk (RQ-4) aircraft will use this site to conduct operations within EUCOM, AFRICOM and CENTCOM Areas of Responsibility (AOR) in support of Overseas Contingency Operations. Because of the multi-theatre-wide operations, the respective SATCOM Relay Station must be located at Ramstein Air Base to provide most current information to the war-fighting commander at any time demanded. [...]*

*Additionally, the nature of the operation requires a site location near an existing intelligence facility on Ramstein Air Base. [...]*

*Lack of this UAS Relay Site could result in significant degradation of operational capability and have a serious impact on ongoing and future missions. [...]*

*A preliminary analysis of reasonable options was done and indicated that only one option meets operational requirements.'*

*From a geographical perspective, Yemen is also included in the Areas of Responsibility mentioned in the report. The United States Central Command (CENTCOM), is the U.S. Armed Forces Regional Command for the Near East, Egypt and Central Asia including Yemen."*

(OVG NRW, judgment of 19 March 2019, 4 A 1361/15, margin no. 255 - 278, [https://www.justiz.nrw.de/nrwe/ovgs/ovg\\_nrw/j2019/4\\_A\\_1361\\_15\\_Urteil\\_20190319.html](https://www.justiz.nrw.de/nrwe/ovgs/ovg_nrw/j2019/4_A_1361_15_Urteil_20190319.html))

Iraq is also part of CENTCOM's area of responsibility (<https://www.centcom.mil/AREA-OF-RESPONSIBILITY/>).

Based on the above-quoted findings of the OVG NRW in its judgment of 19 March 2019, the drone strike on Qassem Soleimani's convoy could likewise not have been



carried out but for the relay of data via the relay station at the U.S. air base in Ramstein. Notwithstanding the fact that other relay stations are being deployed, data for U.S. drone missions in Iraq can only be relayed via the station in Ramstein.

## 1.2

### Obligation of the German Government to prevent violations of international law

The German Government and all its members have an obligation to comply with the rules of international law which are binding upon the Federal Republic of Germany, to refrain from violating international law and, where applicable, to apply international law within its own sphere of control when other states violate it (see, German Federal Constitutional Court (*Bundesverfassungsgericht*, "BVerfG"), ruling of 15 March 2018, 2 BvR 1371/13, juris margin no. 34).

This means that the German Government has an obligation to ensure that no violations of international law are committed on German territory. The U.S. air base in Ramstein is located on German territory; it is not an extraterritorial enclave.

The German Government, and specifically those members named in this Criminal Complaint, had knowledge both of this obligation and of the fact that U.S. drone strikes were being carried out with the involvement of the U.S. Ramstein Air Base in violation of international law.

In its judgment of 19 March 2019, the OVG NRW expressly found with respect to the actions of the U.S. Forces in Yemen at issue in the proceedings:

*"There is strong evidence, known to the [German Government] or at any rate clear factual indications, that armed drone missions carried out in the past by the U.S. with the involvement of Ramstein Air Base [...] were incompatible with [...] the requirements of international law in more than just a limited number of cases and therefore further drone missions in violation of international law are to be expected in the future."*

(OVG NRW, judgment of 19 March 2019, 4 A 1361/15, margin no. 429)

On this basis, the OVG NRW, in the cited decision, held that the German Government had an obligation to take appropriate measures to ensure that the use of Ramstein Air Base by the United States for missions of UAVs from which



missiles are launched to kill people only takes place in accordance with international law, in particular with a view to protecting the fundamental right to life, and, where necessary, to endeavour to ensure that the U.S. Government complies with international law.

Apparently the German Government has thus far failed to comply with this obligation, arguing, *inter alia*, that the decision of the OVG NRW is not yet final and binding (see, BT Printed Papers 19/10477; BT Minutes of plenary proceedings 19/139, 17413).

However, the obligation to ensure that Ramstein Air Base is not used for drone strikes in violation of international law and to prevent activities that violate fundamental rights is a substantive legal obligation and exists independently of the legal force of the judgment of the OVG NRW. Naturally this obligation relates not only to U.S. activities in Yemen, but also to so-called "targeted killings" by drones in all theatres of operation.

The German Government has to date (at least by its own account) not even received any information from the U.S. Government as to whether the satellite relay station in Ramstein was used in the strike on General Soleimani. As was the case even prior to the judgment of the Higher Administrative Court of Münster, the German Government's statements on its exchange and efforts to obtain information on the U.S. practice of using Ramstein Air Base for the deployment of armed drones have rather been limited to declaring that

- a) the U.S. Government has stated that combat drones were "*neither launched nor piloted*" from Ramstein – this statement by the German Government skirts the actual issue and the respective specific questions because this does not concern the "launching and piloting" drones "from Ramstein" but the relaying of command signals initiated from other locations via the relay station in Ramstein to the drones' theatres of operations (and back again) – and
- b) that the German Government was engaged in a good-faith dialogue with its U.S. partners on the issue of the deployment of drones and the role of the Ramstein Air Base, and the U.S. Government had repeatedly assured the German Government that all activities at the military base in Ramstein are conducted in accordance with applicable law

(see, BT Minutes of plenary proceedings 19/139, p. 17351, 17413; BT Printed Papers 19/16574, response to questions 40 and 41).



The OVG NRW already addressed the German Government's statements concerning communications with the U.S. Government, which are identical in every detail, in its decision of 19 March 2019. It ruled that these activities by the German Government were inadequate in view of its obligations to protect potential victims of drone strikes using facilities on German territory:

*"The dialogue/exchange with the U.S. thus far has been completely inadequate to protect the plaintiffs from harm caused by drone strikes in violation of international law.*

*[...] A request by Germany made to the U.S. asking that it use the site solely within the bounds of the law, which is merely general in nature and devoid of any legal specifics, and which makes no apparent assessment or pronouncement of its own as to the specific legality of the drone missions in question, is neither subjectively aimed at nor objectively suitable for excluding or even just reducing the actual threat to life or limb of the plaintiffs posed by a U.S. drone strike carried out with the assistance of Ramstein Air Base in violation of international law. There are no indications that the German Government has made any other efforts in its dialogue with the U.S. beyond such merely general request for lawful conduct. In order to meet its obligation to protect the fundamental rights of the plaintiffs, it must examine the existing doubts as to whether the practice of flying drone missions in Yemen is generally consistent with international law and, where necessary, make specific efforts to ensure that the U.S. uses facilities located on German soil solely for missions that are compliant with the rules of international law.*

*[...]*

*Assuming that the defendant owes such an obligation to the plaintiffs, there is no reason to fear that the foreign and defence policy interests of the Federal Republic of Germany as well as international cooperation between nations, which is also the intention of the German Basic Law (Grundgesetz, "GG"), will be unreasonably impaired. Germany and the U.S. are democratic nations governed by the rule of law and they have committed in many ways, both politically and legally and including at an international level, to the principles of the rule of law, in particular respect for and protection of human rights. It is consistent with these common fundamental values to insist when there is cause to do so that international humanitarian law be complied with and human rights be respected in the use of military force".*



(OVG NRW, judgment of 19 March 2019, 4 A 1361/15, margin no. 571, 572; the court addressed the relevance of the statements on "launching and piloting" drones from Ramstein loc.cit., at margin no. 267)

### 1.3

#### The killing of General Soleimani and other persons constitutes a violation of international law

The killing of Qassem Soleimani and other persons near the airport of the Iraqi capital Baghdad by a drone mission without Iraq's consent was committed in violation of their fundamental right to life, in violation of Iraq's sovereignty and territorial integrity.

Had the U.S. been involved in an international armed conflict with Iran on or before 3 January 2020, the targeted killing of a military commander, i.e., a fundamentally legitimate military target, would have to be assessed according to the rules of international humanitarian law and could be consistent with the rules of international law even outside the context of a specific military combat situation. However, bearing in mind the principle of distinction under international humanitarian law, this does not mean that the killing of victims (particularly civilians) who were also in the convoy or just happened to be in the vicinity, would likewise be justified under international law.

As to the question whether Iran and the U.S. were involved in an armed military conflict on 3 January 2020, which might have legitimised the killing of General Soleimani under international law, the Research Services of the German Bundestag correctly stated in an expert opinion on the Soleimani case dated 13 January 2020 (WD 2 - 3000 - 001/20, 2.2.):

*"Neither the U.S. nor Iran in their official statements on the killing of Soleimani assume that an "international armed conflict" had existed [before the time of the drone strike]. [...] On the other hand, the question of whether the direct military confrontation between the U.S. and Iranian armed forces at the beginning of January 2020 had triggered an armed conflict "with the first shot" at General Soleimani, [...] is currently being debated in [international law] blogs, [...] The prevailing opinion seems to be that a single military strike carried out in self-defence using drones does not likely rise to the level of triggering an armed conflict."*



The fact remains that, if it is to be assumed that General Soleimani was killed in the context of an international armed conflict triggered by the drone strike against him and his killing was consistent with international humanitarian law, that international armed conflict would have been initiated by the U.S., which means that the event would have to be assessed from the standpoint of a war of aggression.

If the killing of Qassem Soleimani and other persons is not covered by the law applicable during times of armed conflict but by the rules of international law applicable in peacetime, with all the guarantees of human rights, his killing could in principle only be permissible if it was necessary in a situation of self-defence or emergency to avert imminent harm to life or limb (see the corresponding statements of the OVG NRW, judgment of 19 March 2019, 4 A 1361/15, margin no. 423 as well as the expert opinion by the Research Services of the German Bundestag dated 13 January 2020, WD 2 - 3000 - 001/20, 3.2.1., in which a parallel is drawn to the notion of "shoot to kill" under provisions of German police law: *'According to this, targeted killings outside the context of armed conflicts are only permissible as ultima ratio insofar as this is absolutely necessary to avert imminent harm to the life of others ("shoot to stop").'*).

Such justification is out of the question here.

Shortly after the deadly drone strike, representatives of the U.S. Government argued that General Soleimani had been planning attacks on U.S. targets and that by killing him he had been stopped.

However, the U.S. Government has to date failed to provide any evidence for the contended direct, imminent danger posed by General Soleimani. On the contrary, in the days thereafter, various persons made contradictory statements which ultimately do not strengthen this allegation, but rather refute it.

In statements made on 3 and 8 January 2020, U.S. President Trump said, without going into detail, that Qassem Soleimani was plotting "*imminent*" attacks on American diplomats and military personnel and "*in recent days*" was planning new attacks on American targets (<https://www.whitehouse.gov/briefings-statements/remarks-president-trump-killing-qasem-soleimani/>; <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-iran/>), and on another occasion spoke of planned attacks on four U.S. embassies. U.S. Secretary of State Pompeo, on the other hand, distanced himself from prior statements in the days after the strike, saying it was not known when or where exactly attacks on U.S. targets were planned. Meanwhile, U.S. Secretary of Defence



Esper said he shared Trump's view of the threat. Esper had, however, first said, just to be clear, that he had not seen any intelligence confirming Trump's assertions – the U.S. Government did not have any evidence of a an imminent plot by General Soleimani to attack U.S. embassies (<https://www.sueddeutsche.de/politik/iran-soleimani-toetung-begrueundung-1.4754736>; <https://www.zeit.de/politik/ausland/2020-01/kassem-soleimani-toetung-donald-trump-mike-pompeo-us-botschaften>).

Members of the U.S. Senate complained that the White House had not provided them with any conclusive evidence to justify the air strike (<https://www.tagesschau.de/ausland/unterrichtung-usa-kongress-iran-101.html>).

These and many other statements made in justification of the strike against General Soleimani and the other victims concentrate far more on the aspects of retaliation and deterrence than the notion of thwarting an imminent attack. This is evident, for example, in the U.S. letter to the UN Security Council dated 8 January 2020, in which the objective of deterrence is clearly stated:

*"These actions were in response to an escalating series of armed attacks in recent months by the Islamic Republic of Iran and Iran-supported militias on U.S. forces (...) in order to deter the Islamic Republic of Iran from conducting or supporting further attacks against the U.S. (...)."*

(<https://www.passblue.com/wp-content/uploads/2020/01/Art-51-Letter.pdf>)

In his public statements, U.S. Secretary of State Pompeo also argued primarily with aspects of retaliation and deterrence.

Finally, the U.S. media reported that the U.S. Government had been considering "taking out" Qassem Soleimani long before the drone strike because he was responsible for the deaths of hundreds of American soldiers.

U.S. President Trump was said to have authorised Soleimani's killing several months prior (<https://www.sueddeutsche.de/politik/iran-soleimani-toetung-begrueundung-1.4754736>; <https://www.nbcnews.com/politics/national-security/trump-authorized-soleimani-s-killing-7-months-ago-conditions-n1113271>).

At a campaign fundraising dinner two weeks after the deadly drone strike, U.S. President Trump was said to have explained his motives for authorising the killing as follows:



*''He was saying bad things about our country', such as Soleimani was threatening to attack the U.S. and kill U.S. citizens. Trump acknowledged that the strike 'shook up the world'. However, the order had been justified because Soleimani had been responsible for the deaths of 'thousands of U.S. citizens''*

(<https://www.welt.de/politik/ausland/article205135294/USA-Plotzlich-bumm-Trump-schildert-Angriff-auf-Soleimani.html>)

According to further media reports, Qassem Soleimani had flown to Baghdad, carrying a diplomatic passport. He had been sent as a diplomatic envoy to personally deliver the Iranian response to a message from Saudi Arabia on de-escalation across the region. These negotiations had been requested by the U.S. Government (<https://www.asiatimes.com/2020/01/article/financial-n-option-will-settle-trumps-oil-war/>).

There is therefore nothing to suggest that the true purpose for killing General Soleimani was to avert imminent and otherwise unavoidable harm to the lives of important legal assets and persons under a specific threat.

Moreover, such an argument could not justify the killing of the other people who died along with Qassem Soleimani when the three missiles were fired at a convoy, which in a mission of this type represented a danger to an indefinite number of innocent people (which, in this case, had in fact materialised) and an instrument of crime which clearly did not offer a way to control the extent of the danger.

The killing of Qassem Soleimani and the other persons killed in the drone strike on 3 January 2020 cannot be justified under international law. Rather, it represented a further violation of international law by the U.S., for which Ramstein Air Base and the satellite relay station installed there were used.

## 2.

The submitted facts establish probable cause for holding the members of the German Government named herein as well as other persons involved in activities of the German Government relating to the U.S. base at Ramstein criminally liable for aiding by omission the murder of Qassem Soleimani and the other persons killed in the drone strike directed against him pursuant to sections 211, 27, 13 StGB.



Should the Federal Public Prosecutor's Office come to the conclusion that the killing of Qassem Soleimani was justified insofar as it occurred in the course of an international armed conflict, the facts submitted establish probable cause for holding the aforementioned persons criminally liable for aiding by omission a crime of aggression (section 13 of the German International Criminal Code (*Völkerstrafgesetzbuch*, "VStGB"), sections 27, 13 StGB) and aiding by omission war crimes against persons (section 8 (1) no. 1 VStGB, sections 27, 13 StGB) against the persons killed along with Qassem Soleimani.

## 2.1

### Criminal liability for aiding by omission the murder of Qassem Soleimani and all other persons killed in the drone strike on 3 January 2020 (sections 211, 27, 13 StGB)

The killing by U.S. Forces of Qassem Soleimani and other persons with three missiles fired in the drone strike on 3 January 2020, which was ordered by U.S. President Trump and executed using the satellite relay station in Ramstein to relay command signals, constitutes several cases of perfidious murder by means constituting a public danger under German criminal law (section 211 StGB).

The element of "perfidiousness" required for the offence of murder is met. In executing the "targeted killing", the U.S. Forces deliberately took advantage of the element of surprise, as a result of which the victims had no opportunity to defend themselves.

Qassem Soleimani (and the other persons killed in the drone strike even more so) had no reason to expect an air strike by U.S. Forces on Iraqi soil at that time. According to the case law of the Federal Court of Justice, even a general suspicion on the part of the Iranian General Soleimani, the Iraqi military commander and deputy chief of the Popular Mobilisation Committee Abu Mahdi al-Muhandis or the bodyguards who were killed, which exists by virtue of their respective positions, does not permanently preclude them from being unsuspecting (see, BGH 3. StrS, decision of 19 April 2017, StB 9/17, juris margin no. 22).

The element of using an instrument of crime "constituting a public danger" required for the offence of murder is met: numerous reported cases clearly illustrate that the effect of missiles fired from drones as a means of attack cannot in



any way be characterised as "targeted". This is even more true when individual vehicles or even entire convoys are under fire.

Reaper drones are equipped with Hellfire missiles, which were originally developed for anti-tank use. They detonate on impact, shrapnel flies in all directions and causes horrendous damage. The blast radius of even one of these missiles, which is at least 15 to 20 metres, is clearly too wide for "precision" strikes on individuals, and therefore the specific impact of the weapon cannot be controlled (see, [https://www.linksfraktion.de/fileadmin/user\\_upload/Publikationen/Broschueren/broschuere-drohnen-2016.pdf](https://www.linksfraktion.de/fileadmin/user_upload/Publikationen/Broschueren/broschuere-drohnen-2016.pdf)). Even a single missile fired by a Reaper drone is capable of injuring or killing a large number of people. If, as in the present case, three missiles are fired at the same time, the danger is considerably greater and the damage can no longer be limited.

The threat to third parties beyond the intended target accordingly materialised on 3 January 2020: in addition to Qassem Soleimani, the person targeted by the U.S. Government, several people travelling in the convoy were also killed, including at least one other person who simply happened to be in the vicinity of the convoy.

As stated under 1.3, the drone strike did not take place in the context of an international armed conflict nor was it necessary to avert any imminent threat to life or limb in a self-defence or emergency situation.

The members of the German Government named in this Complaint aided by omission this main offence, the elements of which have been met, in violation of the law.

The use of the satellite relay station in Ramstein in Rhineland-Palatinate was the cause-in-fact of the killing, because (see the above-cited findings of the OVG NRW) U.S. drone strikes in theatres of operation would not be possible *but for* the integration of this signal relay facility. In this respect, given the current technical circumstances of the U.S. drone strategy, the acts of aiding by the members of the German Government named in this Complaint were *conditio sine qua non* for the "success of the crime", i.e., the killing of General Soleimani (as well as the other persons) by a drone strike, which could not have been executed but for the satellite relay station in Ramstein; but in any case, the fact that the German Government condoned the use of Ramstein Air Base for the U.S. Government's drone strike in violation of international law was tantamount to promoting the commission of the crime.



The members of the German Government could have prevented the drone strike on 3 January 2020 and thus the murder of the persons killed as a result, had they prevented the facilities in Ramstein from being used for air strikes with drones in the Near and Middle East in violation of international law. However, in full knowledge of their legal obligation, they took no action at all.

By virtue of their obligation to ensure that no violations of international law are committed within the territory of the Federal Republic of Germany,

(see in this regard OVG NRW, judgment of 19 March 2019, 4 A 1361/15, margin nos. 186 - 221):

*"the German state authority has an obligation to protect arising under Article 2 (2) sentence 1 GG that also extends to foreign nationals where their fundamental rights are impaired by another state from within Germany in violation of international law [...]. This obligation to protect is triggered even if there is merely a sufficient likelihood of any such impairment arising [...].*

*Under Article 2 (2) sentence 1 GG, the German state has a fundamental obligation to protect foreign nationals living abroad from any impairment of their right to life or physical integrity caused by another state on German territory in violation of international law. [...]*

*The obligation to protect fundamental rights is intended to ensure that the state protects the holders of fundamental rights from infringing or harmful acts by third parties (private persons and other states) who are not bound to uphold fundamental rights. [...]*

*Impairments of the interests protected under Article 2 (2) sentence 1 GG caused by the acts of another state and occurring abroad are deemed to have a close connection to the German state in those cases where the other state's adverse action (the "encroachment on fundamental rights") emanates in all material respects from German territory and thus from within the original jurisdiction and sphere of control of German state authority. [...]*

*The obligation to protect exists in any case with regard to violations of those norms under international law having a close connection to the interests protected under Article 2 (2) sentence 1 GG. In the present context, this includes the prohibition against arbitrary killings which, as international treaty law pursuant to Article 6 (1) sentence 3 of the International Covenant on Civil and Political Rights of 19 December 1966 [...], applies equally to the Federal Republic of Germany and to the U.S. and Yemen, which are each party to the Covenant. This also includes the prohibition against targeted or indiscriminate*



*attacks on civilians as well as the principle of distinction in armed conflicts under international humanitarian law, which [...] constitute integral components of the international treaties and customary international law applicable here. [...]"*

the members of the German Government heading their respective departments had both the status of and an obligation as a guarantor with respect to those persons killed by the drone strike on 3 January 2020.

The acts of aiding by omission the murder of Qassem Soleimani and the other persons killed were also committed knowingly and wilfully. The members of the German Government apparently attached greater importance to making a (largely indiscriminating) "show of good will" towards the U.S. Government, in which no real attempt was made to even communicate the demand to refrain from committing serious violations of international law on German territory, than to the physical integrity and right to life of the countless, often nameless, victims of so-called "targeted killings" by the U.S. Forces, which could never have been executed but for the satellite relay station in Ramstein.

As Complainants, we would not insinuate that, at least for political reasons, the successful killing of General Soleimani and the other persons was a desired outcome. However, by virtue of committing the offence of omission, namely the failure to prevent the known use of the U.S. satellite relay station in Ramstein and thus further killings in violation of international law, they did condone it. As such, they resigned themselves to the possibility of a crime being committed against victims in the U.S. theatres of operation, thus effectively assenting to the deaths of individuals caused by the drone strikes executed using the satellite relay station in Ramstein in violation of international law.

According to the case law of the Federal Court of Justice, a perpetrator need not consider the consequences of their actions to be "inevitable" (BGH NStZ-RR 2007, 43, 44). However, if there is a likelihood of success (however undesirable) and this is accepted for the sake of the desired objective (relationship with the U.S. Government) (see, BGH NStZ 2007, 700), then this constitutes a case of knowing and wilful action/omission.

Knowledge and intent on the part of the members of the German Government also refer to the elements of the offence of murder in the second group of section 211 StGB, the element of "perfidiousness" and an instrument of crime "constituting a public danger": the U.S. practice of so-called "targeted killings" is well known, and



so is the fact that killing political opponents using drones relies on the element of surprise and excessively large missiles are used as weapons.

There are no indications that the factual and intentional conduct of the members of the German Government was not unlawful or not culpable.

## 2.2

### Criminal liability under sections 8, 13 VStGB, sections 27, 13 StGB

If, contrary to the assessment of the Complainants, the Federal Public Prosecutor's Office comes to the conclusion that the killing of General Soleimani and the other persons did occur in the context of an international armed conflict and therefore criminal liability under section 211 StGB does not attach, it must be taken into account that such international armed conflict could only have been initiated by the U.S. drone strike in Baghdad on 3 January 2020. The U.S. Government would thus have been responsible for starting a war of aggression against Iran (at least) and possibly against Iraq as well in violation of international law.

In this respect, by condoning the use of Ramstein Air Base for this drone strike, which triggered an armed conflict, the members of the German Government named in this Complaint would be criminally liable for aiding by omission a war of aggression under section 13 VStGB, sections 27, 13 StGB.

Furthermore, at least with regard to those victims of the drone strike on 3 January 2020 who were not members of the armed forces of Iran (and possibly of Iraq), they would be criminally liable under section 8 (1) no. 1 VStGB, sections 27, 13 StGB for killing persons to be protected under international humanitarian law, namely members of the civilian population.



3.

We hereby move for investigations to be instituted immediately and request prompt notification of the case number.

Sincerely,

Dr Alexander S. Neu, MdB

Dr Diether Dehm, MdB

Heike Hänsel, MdB

Andrej Hunko, MdB

Zaklin Nastic, MdB

Andreas Wagner, MdB

Kathrin Vogler, MdB

Hubertus Zdebel, MdB