

19 July 2024

PRESS RELEASE

Landmark Order on Arms Exports: High Court of South Africa Sets Aside Permits for Arms Exports to Myanmar

Pretoria, 19 July 2024 – Today, the [Southern Africa Litigation Centre \(SALC\)](#), represented by [Lawyers for Human Rights \(LHR\)](#), was granted an order by the Gauteng Division of the High Court (Pretoria) setting aside permits that were granted by the National Conventional Arms Control Committee (NCACC) to facilitate arms transfers to Myanmar. The order by the High Court further declares that the NCACC has an obligation to suspend any contract or export permit of arms to a country that (i) has experienced an unconstitutional change of government and/or (ii) is reasonably suspected, by a special rapporteur, independent expert, or other person working in terms of a United Nations mandate, of having committed any crime against humanity, war crime, or genocide.

SALC and LHR, as well as [Justice For Myanmar](#), an activist organisation that works on arms trades to Myanmar, welcome the High Court's order as it will have immediate consequences not only for any future arms exports from South Africa to Myanmar, but to many other countries too.

SALC's International Justice Cluster Lead, Dr Atilla Kisla, highlighted that:

“Arms exports to a country that violates human rights and that underwent a military coup are illegal. This order is crucial in creating a more responsible and accountable arms trade regime in South Africa. It shows that human rights and international law are limiting factors for arms exports. The example of Myanmar illustrates that words of condemnation or concern are not sufficient. Fighting for human rights requires action in the form of applying the law and suspending and/or cancelling permits if needed.”

Charné Tracey, attorney at LHR, stated that:

“This case is not just about legal obligations but about moral responsibility and the NCACC's inaction in the face of clear evidence was not just a legal oversight but a moral failure. Today's order has the potential to ensure that South Africa's policies reflect our values and principles.”

Justice For Myanmar spokesperson Yadanar Maung stated:

“We welcome the High Court's ruling in this matter as it protects the people of Myanmar by clarifying that such arms transfers are not in compliance with domestic and international law. Such permits should never have been approved in the first place. We hope to see South African arms transfer authorities give full effect to the Court's decision.”

South Africa has committed itself to a foreign policy guided by human rights and international law. The order by the High Court clarifies that obligations under international law apply to all arms exports. Arms exports to states like Myanmar in times of human rights violations, alleged breaches of the Genocide Convention and a military coup are in breach of domestic and international law. This order directs the NCACC to review, suspend and/or cancel all its permits for exports to states that fall under the categories set out in the order. Ultimately, the order is implementing a foreign policy based on human rights and respect for international law.

Background Information

In 2016 and 2017, Myanmar authorities took measures against its own population that led to serious human rights violations in the country, a refugee crisis of the Rohingya minority, and allegations of genocide against the Rohingya minority. UN special procedures like the [UN Special Rapporteur on the situation of human rights in Myanmar](#) and the [UN Independent Fact-Finding Mission on Myanmar](#) have reiterated in their respective reports on the need for investigation and prosecution of military leaders for genocide, crimes against humanity and war crimes. In this context, on 14 November 2019, the International Criminal Court (ICC) [authorised](#) an investigation by the ICC Prosecutor into the situation of Myanmar/Bangladesh for alleged crimes against humanity. In a separate case, on 23 January 2020, the International Court of Justice (ICJ) issued [provisional measures against Myanmar](#) and directed Myanmar to act in accordance with the Genocide Convention in relation to the members of the Rohingya group in its territory. On 1 February 2021, the Myanmar military overthrew the democratically elected government in an unconstitutional coup. From 2017 to 2021, South Africa exported arms to Myanmar with a total value of R215,735,677 (USD 11,866,216). SALC filed its application in the High Court in October 2022.

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