

GERMANY BRIEFING

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On German Arms Exports and Complicity in War Crimes

German arms export authorisations reached record levels in 2025, following the already unprecedented figure recorded in 2024. Within this, exports to Israel remain politically significant, totalling around €201 million in 2025. These approvals were issued despite the German government had partially suspending the licensing of certain arms exports to Israel in August 2025 in response to developments in the Gaza war. The restrictions were limited in scope and did not apply to equipment classified as primarily defensive military material. They were lifted again in mid-November 2025 following the announcement of a ceasefire.

Germany is widely regarded as Israel’s second largest arms supplier after the United States. According to data compiled by the Stockholm International Peace Research Institute, Germany accounted for roughly thirty percent of Israel’s major arms imports between 2019 and 2023. Exported items include naval systems, ammunition components, and air defence-related technology. Since October 2023, approved exports have risen sharply compared to previous years.

These continued transfers have drawn sustained criticism from human rights organisations and legal experts. Amnesty International warned that resuming exports could be unlawful and risks implicating Germany in international crimes if the weapons are used in violations of international humanitarian law. This concern is reinforced by extensive reports of alleged war crimes in Gaza, including widespread destruction of civilian infrastructure, displacement, and high civilian casualties.

Arms exports lack sufficient judicial oversight, victims lack protection

Beyond the specific case of Israel, the controversy highlights structural weaknesses in Germany's arms export control system. Decisions are made largely within the executive branch, often in confidential settings, with limited transparency and minimal parliamentary oversight. Legal challenges brought before German courts frequently encounter procedural barriers, particularly the requirement that plaintiffs demonstrate a direct and individual violation of their own rights. Individuals affected by military operations abroad generally cannot meet this requirement and therefore lack standing to challenge export licenses issued by the German government.

This accountability gap was underscored by a February 2026 decision of the Federal Constitutional Court, which dismissed a complaint by a Palestinian civilian from Gaza. The applicant argued that German arms exports contributed to violations of his right to life, citing the deaths of close family members. However, the Court rejected the case as inadmissible, finding that he could not show a direct link to specific export decisions and had no individual legal entitlement to challenge them. As a result, the Court did not assess whether the exports themselves were lawful.

The decision has attracted considerable criticism in legal scholarship and practice. Commentators argue that the Court's reasoning effectively insulates politically sensitive arms export decisions from meaningful judicial scrutiny. Remo Klinger, legal representative in the case, describes the ruling as evidence of a structural accountability gap in German arms export law, as individuals affected by potential human rights violations lack effective legal remedies to challenge export authorisations. Similarly, Alexander Schwarz (European Center for Constitutional and Human Rights) notes that, although the Court recognises state duties to protect fundamental rights, it significantly limits their enforceability through individual claims.

Legal analyses further highlight that the German export control framework grants neither individual nor organisational standing to contest export licences, leading to the dismissal of cases at the admissibility stage. Some scholars therefore criticise the Court's restrictive interpretation of protective obligations under Article 2(2) of the Basic Law, arguing that earlier jurisprudence on extraterritorial duties could have supported a more substantive review.

From an international law perspective, critics emphasise binding obligations under the Arms Trade Treaty and customary humanitarian law, which prohibit assistance in serious violations. Where credible risks exist, states must adopt precautionary measures and ensure effective oversight. The absence of robust judicial review thus raises broader concerns about compliance with international accountability standards.

When *raison d'état* take Precedence over Human Rights

The continuation of German arms exports to Israel must also be understood within the broader framework of the German concept of *raison d'état* (*Staatsräson*). This political doctrine frames the security of Israel as part of Germany's fundamental *Staatsräson* in light of

the historical responsibility arising from the Holocaust and forms an essential component of German foreign policy.

In practical terms, the concept of *Staatsräson* has often translated into strong diplomatic support for Israel in international forums. German governments have frequently emphasised Israel's right to self defence while adopting comparatively cautious language when addressing allegations of violations of international humanitarian law. Government representatives have repeatedly stated that all parties must comply with international law and protect civilians. However, these statements have rarely been accompanied by concrete political or economic measures that would impose costs in the event of violations.

This tension is particularly visible in Germany's responses to developments in the occupied Palestinian territories. Human rights organisations have documented repeated incidents of violence by Israeli settlers against Palestinian communities in the West Bank. Several investigations have alleged instances in which Israeli security forces either failed to intervene effectively or cooperated with settler groups during such incidents. The German government has been reluctant to acknowledge the extent of these dynamics in its official statements, thereby contributing to a diplomatic discourse that downplays structural patterns of violence in the occupied territories. This refusal to acknowledge Israel's violations of international laws even extends to the shelling of UN peacekeepers in Lebanon by Israel or the documented attack on desalination plants in Iran by the US and Israel, which the German government recently declined to comment on, even when asked.

Germany's almost entirely uncritical attitude towards Israel is also reflected in its position regarding the UNRWA. In late 2025 and early 2026 Germany abstained in United Nations deliberations on the extension of the agency's mandate, citing unresolved if not unsubstantial allegations that some UNRWA employees had links to militant organisations. Given the agency's central role in providing humanitarian assistance, education, and medical services to millions of Palestinian refugees, the abstention contributed to undermining the political legitimacy of one of the most important humanitarian institutions operating in Gaza.

Taken together, these developments show that the invocation of *Staatsräson* risks creating a political framework in which historical responsibility and strategic alignment take precedence over the consistent enforcement of international humanitarian law standards. While German officials continue to call for compliance with international law, critics contend that the absence of stronger political responses to alleged violations weakens the credibility of these appeals.

Palestinian Experiences marginalized, political Activism criminalized, Islamophobia justified

However, this attitude also has concrete effects on German society and its citizens. Estimates suggest that approximately 100,000 to 200,000 but possibly up to 300,000 people of Palestinian origin live in Germany, many of them as naturalised German citizens. Germany is widely considered to host the largest Palestinian diaspora community in Europe. As

outlined before, debates surrounding Israel's war on Gaza in Germany are strongly shaped by the doctrine of *Staatsräson* and the political commitment of successive German governments to Israel's security. Within this broader political context, members of the Palestinian diaspora frequently operate in a highly sensitive discursive environment in which the articulation of Palestinian perspectives on the conflict is often politically contested.

At the same time, a growing body of research and civil society reporting highlights the emergence of discursive patterns described in parts of the literature as anti-Palestinian racism. These analyses refer to recurring forms of stereotyping, including the portrayal of Palestinians and Muslims in general as carriers of "imported antisemitism" or as a potential security risk. Scholars have also noted that such representations frequently overlap with broader forms of anti-Muslim discrimination in Germany, thereby situating Palestinians within wider patterns of Islamophobic exclusion. Within this discursive framework, Palestinian political expression is often subject to heightened scrutiny, and narratives centred on Palestinian historical experiences, such as displacement, occupation, the legacy of the Nakba and the suffering of relatives in Gaza and the Occupied Territories, tend to receive comparatively limited recognition in mainstream public discourse.

Several studies further argue that this environment contributes to the political delegitimisation of Palestinian narratives of suffering. Researchers point out that while Israel's war on Palestine is widely discussed in Germany, the articulation of Palestinian historical memory and contemporary experiences of violence is often marginalised or framed primarily through the lens of security concerns and antisemitism debates. In addition, reports since 2023 have documented a number of restrictions affecting pro-Palestinian political activities, including bans or limitations on demonstrations, police restrictions on protests, and the cancellation of cultural or academic events linked to Palestinian solidarity initiatives. Authorities generally justify such measures on grounds of public order or the prevention of antisemitic incidents, while critics argue that they contribute to a restrictive environment for pro-Palestinian advocacy.

Systematic overreach by police and authorities in the name of public order, contributing to perceptions that lawful political expression on the Israeli-Palestinian conflict is being unduly curtailed in Germany as exemplified in a prominent case:

The Berlin Administrative Court ruled in late 2025 that the police's dissolution of the "Palestina-Kongress" in April 2024 was unlawful and disproportionate, finding no evidence that the organisers or participants had engaged in criminal conduct that would justify the abridgement of constitutional assembly rights. The event, which had been convened by solidarity groups including Jewish and left-wing organisations to address Gaza and Germany's perceived responsibilities, had been broken up in a high-profile operation only hours after it began, and earlier legal actions such as entry bans on invited speakers like Palestinian-British surgeon Ghassan Abu-Sittah were also subsequently declared unlawful. This judicial correction occurred against a backdrop in which authorities frequently justified bans or heavy restrictions on pro-Palestinian gatherings by citing abstract risks of security incidents or antisemitic speech, even when such measures lacked concrete evidence. Within the broader pattern of restrictions on pro-Palestinian activism in Germany, as documented for example in

police bans on demonstrations and symbolic slogans such as “from the river to the sea” that some courts later found to be unlawful while others uphold them, this ruling underscores ongoing tensions between constitutional freedoms of assembly and expression and the state’s securitisation of protest.

Freedom of Expression under Pressure

Freedom of expression is also coming under pressure in other areas. In early 2026, the United Nations Special Rapporteur on freedom of expression publicly warned that civil liberties in Germany are under strain as the space for dissenting speech contracts amid rising social tensions and securitised public discourse, particularly in the context of debates over migration, religion and the Middle East conflict. The expert highlighted a pattern of chilling effects on critical political speech and protest, urging the German state to ensure that counter-extremism measures do not disproportionately limit lawful expression or dissenting viewpoints under international human rights standards. This concern intersects with several high-profile domestic cases that have sparked debate about the boundaries of free expression and the administrative and legal responses to perceived threats.

One such incident involved the German Culture State Minister excluding three candidates, long-established and recognised bookstores, for a national award, reportedly directing constitutional security vetting because of the applicant’s perceived political leftist positions. Critics argued that this episode illustrated how reputational risk and media pressure can trigger state intervention in cultural affairs, raising questions about due process and the extent to which cultural actors are subject to informal or formal political censorship.

In another case, German authorities revoked the passport of a naturalised Syrian-German citizen after he posted “celebratory” content related to Hamas on social media. German officials justified the decision under provisions allowing denaturalisation for conduct deemed incompatible with constitutional order. Since June 2024, Germany has implemented new naturalisation rules requiring applicants to specifically declare their commitment to the protection of Jewish life.

Together, these developments illustrate an emerging pattern in which German authorities apply a combination of administrative powers and informal pressures to limit speech under the cover of threatening public order or constitutional norms. The backdrop to these tensions includes ongoing securitisation of debates about migration, Islam, and foreign policy, as well as controversial judicial and administrative practices which involve pre-emptive state measures against individuals based on assessed future risks rather than concrete criminal acts. Civil liberties scholars argue that the net effect of such policies is to shift the balance from protective to restrictive measures, with consequences for political pluralism and democratic debate as well as minorities.

Proportionality Under Strain: Pre-Trial Detention and the Expansion of Criminal Liability in the “Ulm 5” Case

Alongside the suppression of civil society engagement, disproportionate conduct by German authorities can also be observed in connection with other protest actions.

The case of the “Ulm 5” concerns five activists accused of carrying out a coordinated break-in and act of sabotage at the German subsidiary of Elbit Systems in Ulm in September 2025, causing material damage. Following their arrest, they are held in extended pre-trial detention and charged, inter alia, with membership in a criminal organisation. Release on bail was denied by the competent court, notwithstanding the fact that the defendants submitted to arrest without resistance.

This case raises significant questions regarding the proportionality of state responses to politically motivated direct action. While the material damage attributed to the defendants is substantial and the premeditated nature of the action appears uncontested, the prosecutorial strategy adopted by German authorities warrants critical scrutiny. In particular, the invocation of Section 129 of the German Criminal Code (membership in a criminal organisation) represents a notable escalation. Traditionally designed to address structured and potentially dangerous networks, its application in this context risks broadening the scope of criminal liability in ways that may conflate civil disobedience, albeit unlawful, with organised criminality.

Equally contentious is the prolonged use of pre-trial detention. The extension of custody over several months, justified on grounds such as flight risk and the severity of the alleged offences, appears difficult to reconcile with the principle of proportionality, especially in the absence of a final conviction and previous convictions. Pre-trial detention, under both German constitutional law and European human rights standards, is intended as an exceptional measure rather than a punitive instrument. Its extended application in this case raises concerns about its de facto transformation into anticipatory punishment.

Moreover, reported restrictions on communication during detention further intensify these concerns, particularly where they may impede effective legal defence or disproportionately affect non-German defendants.

Taken together, the measures adopted in the Ulm case show the ongoing tendency towards securitisation in the handling of Pro-Palestinian protest actions.

Germany's Approach to Racism and Islamophobia: Ignorance and Inaction

While the state elections in Baden-Württemberg, where the far-right AfD was able to almost double its previous election result, demonstrate the continuing rightward trend among the electorate, a study once again proves the federal government's inability and unwillingness to

take effective and appropriate action against racism and Islamophobia, thus contributing to their further establishment in the centre of society.

A major three-year sociological study funded by the German Federal Ministry of the Interior and conducted by the Research Institute for Social Cohesion (FGZ) has established that racist discrimination is present across a wide range of German public authorities, including job centres, immigration offices, police, customs and welfare services, manifesting at individual, institutional and structural levels.

Researchers found that no authority examined was entirely free of racist dispositions in daily routines, discretionary practices or organisational cultures, even if staff attitudes did not uniformly exceed those of the general population. Despite the unprecedented scale and rigor of the study, the federal interior ministry under Alexander Dobrindt published the report with minimal publicity, issuing it quietly on a Friday afternoon without press conferences or public engagement, a decision that has generated significant criticism from academics involved in the research. Critics argue that the ministry's reticence to foreground the results reflects a broader reluctance within German political leadership to confront evidence of institutional discrimination.

The study's findings resonate with longstanding concerns raised by human rights monitors that Germany's official frameworks for addressing racism and Islamophobia remain inadequate, in part because of limited official recognition of anti-Muslim racism as a distinct phenomenon and insufficient mechanisms for collecting comprehensive data on discrimination. In practical terms, this has meant that many Muslims and other racialised minorities experience everyday discrimination without effective legal recourse, and public authorities may inadequately address such complaints when they arise. The muted political response to the FGZ report parallels criticisms of recent administrative and policing practices that appear to prioritise security framing over structural self-reflection, contributing to perceptions among minority communities that their lived experiences of bias are marginalised within public policy. This pattern has implications for free expression and civic participation, as contested debates about Islamophobia, extremism and migration often unfold within legal and institutional environments that are perceived as unsympathetic or antagonistic to critical voices from Muslim communities. Taken together with ongoing critiques of the securitisation of dissent, including restrictions on pro-Palestinian activism, the study of institutional racism in German authorities underscores a broader challenge for German democracy: ensuring that constitutional commitments to equality, non-discrimination and freedom of expression are meaningfully implemented across both law enforcement and administrative institutions.

Media as amplifiers of Islamophobia

A controversy surrounding the Joseph-Beuys-Gesamtschule in March illustrates how a localised school conflict can be transformed into a national media scandal through selective reporting and culturally charged framing. Similar reports recur almost annually during Ramadan and frequently prove to be either unsubstantiated or difficult to verify, as they often rely on anonymous or weakly corroborated accounts.

Initial coverage, most prominently in the right-wing populist Bild, Germany's best selling newspaper, alleged that Muslim pupils had pressured non-Muslim classmates to refrain from eating during Ramadan and that a teacher had endorsed such behaviour. These claims were largely based on the testimony of a single parent and framed in a manner suggesting coercion and institutional accommodation of religious demands.

Subsequent reporting by regional and national outlets presents a more differentiated picture. Sources confirm that a conflict between fasting and non-fasting pupils did occur and prompted pedagogical intervention. However, the school clarified that the pupils involved were Year 5 students, approximately ten years old, and described the incident as an ordinary interpersonal conflict among children rather than a structured or ideologically driven dispute. Both the school and the relevant supervisory authority rejected the interpretation of a generalised rule or systemic pressure, instead characterising the situation as a communication problem and an isolated incident. Authorities further reiterated that no pupil may be compelled to observe religious practices.

Coverage by the Neue Ruhr Zeitung later frames the episode as an instance of disproportionate media amplification. It emphasises that the complaint originated from an individual parental account and that subsequent clarification contradicted key elements of the initial reporting. Commentary further suggests that the case was escalated in public discourse to a degree that obscured its limited scope and everyday character.

The public debate was intensified by interventions from figures such as Seyran Ateş, a prominent advocate of a so-called "liberal Islam", who used the incident to reiterate broader concerns about the influence of "conservative Islam" in public institutions. Such contributions generalised from the specific case and framed it as indicative of wider societal tensions, despite the limited empirical basis.

More broadly, the case illustrates a recurring pattern in which initial reporting reproduces persistent Islamophobic tropes that continue to shape public perception even after subsequent corrections or contextualisation. This dynamic contributes to the stabilisation of Islamophobic narratives in public discourse, highlighting the asymmetry between the visibility of initial claims fuelled by Islamophobia and the comparatively limited reach of later clarifications.