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Your Ref: **C1/2017/2079**

Our Ref: REC/EAK/00065492/9

Date: 5 January 2018

## First Letter

### BY EMAIL

Dear Sirs

### **Campaign Against Arms Trade v Secretary of State for International Trade C1/2017/2079**

#### Introduction

We write on behalf of the Appellant in the above matter, CAAT, to request that (i) consideration of the application for permission to appeal be expedited and (ii) if permission to appeal is granted, the hearing of the appeal also be expedited.

#### Background

This matter concerns an application for judicial review of decisions taken in December 2015 and subsequently to allow the continued export of arms to Saudi Arabia for possible use in Yemen. The Government's own policy, which implements an EU Common Position, precludes the export of arms where there is a "clear risk" that those arms "might" be used in the commission of serious violations of international humanitarian law ("IHL"). On 10 July 2017, after open and closed hearings in February 2017, the Divisional Court (Burnett LJ and Haddon-Cave J) dismissed CAAT's claims for judicial review and refused permission to appeal.

The Claimant's application to this Court for permission to appeal was filed on 28 July 2017. Its skeleton argument in support was filed on 15 September 2017. We understand that further closed grounds of appeal were filed by the Special Advocates on 29 September 2017. The Secretary of State's open and closed responses were filed on 20 October 2017.

If CAAT's appeal succeeds, it will follow that the approach to the export of arms to Saudi Arabia has been unlawful. Decisions as to the continued export of arms to Saudi Arabia (and generally) will have to be re-taken.

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## Reasons for now seeking expedition

Since the application for permission to appeal was filed, the situation in Yemen has deteriorated significantly and the evidence of serious violations of IHL by Saudi Arabia mounts; yet, as CAAT understands the position, the UK continues to export arms to Saudi Arabia in substantial quantities.

On 4 December 2017 the UN Office for the Coordination of Humanitarian Affairs warned of a dangerous escalation of armed clashes and air strikes in Sana'a City.<sup>1</sup> As recently as 28 December 2017, the United Nations reported that Saudi Coalition airstrikes on a busy market and family home had killed as many as 68 civilians in a single day in Yemen.<sup>2</sup> Senior UN officials described these and other recent attacks as "indiscriminate" and showing a "complete disregard for human life" by the Saudi Coalition as well as other parties to the conflict.<sup>3</sup>

On 29 December 2017, the Directors General of the World Health Organization, the World Food Programme and UNICEF issued a joint statement noting "escalating violence" in Yemen and declaring that the "conflict in Yemen has created the worst humanitarian crisis in the world – a crisis which has engulfed the entire country".<sup>4</sup>

In view of the developing situation, on 3 January 2018, the Norwegian government announced that it was suspending licences for the supply of arms and ammunition to the United Arab Emirates (a member of the Saudi Coalition) following a review of the situation in Yemen including compliance with international humanitarian law. Norway noted that "[t]he armed conflict in Yemen has escalated since autumn 2017, and there are major concerns about the humanitarian situation",<sup>5</sup> and decided to suspend existing licences "following a comprehensive assessment and in light of the unclear situation" on the ground.<sup>6</sup>

1

[https://reliefweb.int/sites/reliefweb.int/files/resources/Situation%20Update%201\\_Escalation%20of%20armed%20clashes%20and%20strikes%20in%20Sana%27a\\_FINAL\\_ENG.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Situation%20Update%201_Escalation%20of%20armed%20clashes%20and%20strikes%20in%20Sana%27a_FINAL_ENG.pdf)

2

<http://www.bbc.co.uk/news/world-middle-east-42503472>

3

See Statement on Behalf of the Humanitarian Coordinator for Yemen, Jamie McGoldrick, on Mounting Civilian Casualties (28 December 2017)

<https://reliefweb.int/report/yemen/statement-behalf-humanitarian-coordinator-yemen-jamie-mcgoldrick-mounting-civilian>

4

See Joint statement by: WHO Director-General Tedros Adhanom Ghebreyesus UNICEF Executive Director Anthony Lake WFP Executive Director David Beasley available at: <http://www.who.int/mediacentre/news/statements/2017/yemen-1000-days-of-war/en/>

5

See <https://www.reuters.com/article/us-yemen-security-norway-emirates/norway-suspends-arms-sales-to-uae-over-yemen-war-idUSKBN1ES0HG?il=0>  
<http://www.aljazeera.com/news/2018/01/norway-suspends-arms-exports-uae-war-yemen-180103102840587.html>

6

<https://www.regjeringen.no/en/aktuelt/suspension-of-export-licences-to-the-united-arab-emirates/id2583475/>

More broadly, alongside ongoing aerial bombardment, the humanitarian situation in Yemen has markedly deteriorated in recent months. There has been a military blockade of Yemen ports by the Saudi Coalition, which reputable international bodies have alleged to be in violation of international humanitarian law.<sup>7</sup> On 6 November, the Saudi Coalition closed all civilian land, sea and airports into and out of Yemen via a military blockade. There is a reported easing of this blockade since 13 November, however, access to the country humanitarian aid and foodstuffs as a result of the military blockade remains very limited. UN and as well as international aid agencies have warned that supplies remain wholly insufficient to meet the needs of the Yemeni population and the UN Office for the Coordination of Humanitarian Affairs has warned of "famine like conditions" already unfolding in the country as a result of the blockade.

As explained in the Claimant's application, UK weaponry including missiles, munitions and other forms of military hardware continue to be supplied to the Saudi Coalition for use in Yemen. The Claimant's case is that the Defendant has acted unlawfully in granting (and refusing to suspend) licences for the export of arms and military equipment to the Kingdom of Saudi Arabia for use in Yemen. As set out in the Claimant's grounds of appeal, the Divisional Court erred in its consideration of the claim in a number of specific respects.

Given the level and intensity of conflict in Yemen and the on-going allegations of breaches of fundamental rules of international humanitarian law by the Coalition, there is a compelling need for the issues at stake in the present litigation to be resolved quickly.

We therefore request that CAAT's application for permission be expedited and, in the event permission is granted, the hearing of the appeal also be expedited.

Yours faithfully



**LEIGH DAY**

*cc. Government Legal Department*

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<sup>7</sup> <https://www.reuters.com/article/us-yemen-security-blockade/u-n-aid-chief-appeals-for-full-lifting-of-yemen-blockade-idUSKBN1DV4AI>