

Press release: Brussels Court of Appeal ruling – Genocide in Gaza – Droit pour  
Gaza/ABP/CNAPD/SOS Gaza

***In the legal action brought against the Belgian State for its failure to act in the face of the genocide in Gaza, the Brussels Court of Appeal has delivered a landmark ruling in international law: it has declared itself competent to examine whether, in the face of a serious risk of genocide and grave violations of the Geneva Conventions, Belgium is acting in accordance with its obligations under international law to bring an end to the genocide and the violations of international humanitarian law.***

***On this basis, the Court overturned the judgment of the court of first instance and recognised the Belgian State's fault, finding that it had failed to do everything reasonably within its power at the appropriate time to prevent and bring an end to Israel's crimes.***

***It notes that, since the appeal was lodged, measures have been taken regarding the transit of arms and orders a reopening of the proceedings concerning dual-use goods.***

**1.** On 22 July 2025, the collective **Droit pour Gaza - Recht voor Gaza**, the **Belgian-Palestinian Association (ABP)**, the **National Coordination for Action for Peace and Democracy (CNAPD)**, **SOS Gaza** and two **Palestinian victims**, brought legal proceedings seeking to hold the Belgian State liable for its failure to act in the face of the genocide committed by Israel in Gaza, the serious violations of international law and the illegal occupation of Palestinian territory.

The action sought to compel Belgium to take, as a matter of urgency, three measures required under international law due to Israel's systemic violations of , the genocide in the Gaza Strip and the illegal occupation of Palestinian territory. These measures concern:

1. the closure of Belgian airspace to the transport of arms and military equipment, including dual-use equipment, bound for Israel;
2. a ban on all trade with Israeli settlements in the occupied Palestinian territories and, more broadly, on any funding or investment that contributes to the maintenance of Israel's illegal occupation of Palestine, as well as a ban on all imports of goods or foodstuffs originating from Israel's illegal settlements in Palestine;
- 3° the denunciation (or, in the alternative, the suspension) by Belgium of the Association Agreement between the EU and its Member States ('the Euro-Mediterranean Agreement') and Israel.

**2.** By order of 24 September 2025, the President of the Brussels Court of First Instance, sitting in summary proceedings, dismissed our application and we lodged an appeal.

The case was heard on appeal before the summary proceedings chamber of the Brussels Court of Appeal on 9 February 2026.

**3.** On 16 March 2026, the Court of Appeal delivered an (interlocutory) judgment in which it the order of the court of first instance and recognised that **the Belgian State had failed to fulfil its obligations under international law.**

The Court held that: *'Article 1 of the Genocide Convention and Article 1 common to the 1949 Geneva Conventions, which oblige States Parties to ensure compliance with these conventions, have*

- **direct effect in domestic law** (defined as the capacity of a provision to be invoked before a court), in that,
- where a breach of these provisions is alleged, the court is required to assess, as a matter of secondary consideration (...), **whether, in the face of a serious risk of genocide and grave breaches of the 1949 Geneva Conventions by a State Party, the Belgian State acted within the limits laid down by law and as a normally prudent and competent authority placed in the same circumstances** ' (paragraph 7 of the judgment, emphasis added).

To our knowledge, this is **the first time that a court has declared itself competent to review**, at the request of victims and NGOs, **whether Belgium is fulfilling its obligations under international law to take all reasonable measures within its power to prevent and put an end to violations of international law by a third State and to prevent the commission of genocide.**

4. Ruling on the request to close Belgian airspace to aircraft transporting arms to Israel, the Court finds that **urgency is established** in that the measure sought aims to **prevent the use of weapons, military equipment and dual-use goods that could be used to commit genocide, crimes against humanity** and attacks directed against civilians **in the Gaza Strip**, or **other war crimes** as defined by international agreements to which the Belgian State is a party (paragraph 38).

5. The Court finds that **Belgium has been under an obligation to take measures since 26 January 2024, the date on which the International Court of Justice found that there was a serious risk of the commission of the crime of genocide, crimes against humanity and serious violations of the Geneva Conventions in the Gaza Strip after 7 October 2023**, and ordered the State of Israel to comply with its obligations under the Genocide Convention, an order reiterated in the orders of 28 March 2024 and 24 May 2024.

**The gravity of the situation in the Gaza Strip therefore required the States Parties to the Genocide Convention and the Geneva Conventions to take without delay such measures as were reasonably within their power** to prevent the commission of the crime of genocide, crimes against humanity and grave breaches of the Geneva Conventions in the Gaza Strip (paragraph 44).

6. The Court further notes that the Belgian State has taken no measures to ensure the effective implementation of the ban on the transit of arms through its territory, until the adoption, on 18 January 2026, of a royal decree "*prohibiting the overflight of national airspace and forbidding technical stopovers by aircraft transporting military equipment from Belgium to Israel and the Occupied Palestinian Territory*"<sup>1</sup> even though its obligation to act had existed since the first order of the International Court of Justice (26 January 2024): **the Belgian State therefore did not immediately do what was within its power to prevent the transfer of arms and military equipment to Israel** or the Occupied Palestinian Territories that could be used to commit the crime of genocide, crimes against humanity and serious violations of the Geneva Conventions in the Gaza Strip, and **has therefore breached its obligations under those conventions.**

As this Royal Decree was issued after our application had been examined at first instance, **the Court overturns the order of the Court of First Instance, finding that we, the applicants, were justified in asking the judge hearing the application for interim relief to order the Belgian State to take, on pain of**

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<sup>1</sup> The Belgian State adopted this decree whilst also **referring to the present legal action brought against it**, in order to justify to the Council of State the urgency of adopting this Royal Decree (COUNCIL OF STATE, Legislation Section, Opinion 78.118/VR/V of 21 August 2025, [78118.pdf](#)).

as a precautionary measure, the measures falling within its competence to prevent the violation in the Gaza Strip of the Genocide Convention and the Geneva Conventions, such as the prohibition on overflights of Belgian territory and technical stopovers by aircraft carrying arms and/or military equipment destined for Israel or the occupied Palestinian territories (paragraph 45).

7. As the Court notes, **the Royal Decree of 18 January 2026 does not, however, prohibit the use of Belgian airspace for dual-use goods**, that is to say, goods which are or may be intended wholly or partly for military purposes, and **the Belgian State does not explain what it has done**, in consultation with the Regions, **to adopt**, in accordance with EU law, **measures reasonably available to it to prevent their transfer to Israel or the Palestinian territories**, in particular, to close Belgian airspace to aircraft carrying such goods to Israel or the occupied territories (paragraph 46).

**The Court orders the reopening of the proceedings at the hearing on 30 March 2026 at 9.00 am** (Courtroom 0.C) to allow the Belgian State to provide its defence on this point.

8. We welcome this landmark decision in international law, which establishes **that a national court may hold a state liable for failing to fulfil its obligations under international law to prevent the commission of genocide, war crimes, crimes against humanity and serious violations of the Geneva Conventions**.

9. As regards the two other measures requested, namely to cease trade with the illegal settlements in Palestine and to denounce or suspend the Euro-Mediterranean Agreement, the Court considers that *‘the request is unfounded because, prima facie, the determination and implementation of the measures falling within its jurisdiction, other than the prohibition on overflights of Belgian territory and technical transit of aircraft carrying arms and/or military equipment bound for Israel or the occupied Palestinian territories, fall within **the discretionary power of the Belgian State**, so that, prima facie, the principle of the separation of powers does not, in the Court’s view, prima facie, the courts of the judicial order to take the place of the executive and legislative powers in defining the measures necessary to ensure that the State of Israel complies with international law’* (paragraph 51).

As applicants, we question how this final part of the judgment relates to the fact that international law does not require Belgium to take measures against Israel in an attempt to curb its genocidal actions and brutal colonisation, but does oblige it **‘to use all means reasonably at its disposal’** with a view to prevent, as far as possible, the ongoing genocide in the Gaza Strip and to bring an end to the unlawful occupation of the Occupied Palestinian Territory.

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