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The Stuttgart DA's Office's Consequential Decision to Continue the Game of Sacrificing Pawns Played by Heckler & Koch and the German Federal Government

Interview with the attorney Holger Rothbauer for CASE 02 of the GLOBAL NET – STOP THE ARMS TRADE: Illegal exports of G36-Assault rifles into Mexican regions of conflict.

In 2010 the peace activist and author Jürgen Grässlin filed a complaint against former employees of Heckler & Koch (H&K). In 2012 his complaint was extended to include responsible officials at the Federal Agency for Export Control (BAFA) and the Federal Ministry for Economic Affairs (BMWi) by his attorney Holger Rothbauer.

The DA's office, however, shelved the investigations despite the close connections of the BAFA and BMWi officials to the case of the G36-Rifles in Mexico. These and other dubious cases of mismanagement – for which the Stuttgart DA Peter Vobiller bears much responsibility – are the motivation for this interview. It was conducted by the GLOBAL NET – STOP THE ARMS TRADE (GN-STAT) with the Attorney Holger Rothbauer just before the opening of the trial against Heckler & Koch.

Question GN-STAT: Would a conviction of the criminal charges brought by the DA against the six defendants from Heckler & Koch for their involvement in the illegal export of several thousand assault rifles of the type G36 warrant long prison sentences?

Attorney Holger Rothbauer: If the charges are confirmed during the trial and the violation of the War Weapons Control Act in 16 cases in a commercial and “gang” like manner is proven, they ought to be sentenced to at least one year in prison for each charge that applies to their individual case. In case of a full conviction this would exclude a suspended prison sentence of a maximum of two years for the main offenders.

Question GN-STAT: There is a gap of 8 years between the initial complaint in April 2010 and the beginning of the criminal trial in May 2018. What have the Stuttgart DA and District Court been up to?

Att. Rothbauer: Even though we, the complainants, had submitted a lot of material from here and Mexico to the DA's office for their investigation, it took well over five years until they finally pressed charges. Why it then took the Stuttgart District Court well over two years after admitting the case in 2016 to finally open a public trial is a mystery even with reference to previous large-scale cases.

Question GN-STAT: Peter Beyerle was the Chief Justice of the Rottweil District Court, the same District Court where the headquarters of H&K is located. Only a few weeks after his retirement from the court in November 2005 he became the H&K GmbH's agency correspondent in early 2006 before taking over as exports director

and Executive Managing director in the summer of 2007. He is one of the people who were primarily responsible for the illegal deal with Mexico. Who knows anything about these things may get the impression that influential circles may want to protect Beyerle from a just punishment.

Att. Rothbauer: I fear the goal is simply to protect the “honorable member of the judicial-family” from the imperative prison sentence and thereby from going to jail. A specific punishment jurisdiction of the Federal Criminal Court in favor of the Accused compensating a very long during criminal procedure. It is of course also well known that Mr. Beyerle is well connected in the political sphere and is therefore likely to know about aspects of Heckler & Koch’s export business, which certain political actors do not want to see published under any circumstances.

Question GN-STAT: In face of the facts known to us it is very difficult to believe that Beyerle and other former H&K employees have reason to hope for a mild sentence. After all, more than 4700 G26-Assault rifles were exported to forbidden Mexican states between 2006 and 2009. In these states the weapons have been used to threaten, shoot and murder people. In the city of Iguala, where the rifles were legally not allowed to be, 43 teaching students were kidnapped, and six people were murdered during an attack by the Police and the criminal gang “Guerreros Unidos”. G36-Rifles were used during the attack, which should never have been in Guerrero in the first place. The drug mafia has been and still is getting their hands on the weapons from Oberndorf. Murders are committed with H&K rifles each day – in Mexico but also in other regions of conflict and war worldwide.

Att. Rothbauer: The case of the G36-Exports to Mexico illustrates very well how closely the legal and illegal arms trade are related. Neither the permitted number of approx. 8000 G36-Assault rifles nor the additional illegal shipments into Mexican regions of conflict should ever have been approved by the government or been exported by Heckler & Koch. Even then everybody knew that Mexico is facing a severe drug and quasi-civil war. Whoever permits exports of the “weapons of mass destruction of the modern day” on such a scale none the less, like the Federal Government did, is in my opinion legally and morally complicit in murder and homicide!

Question GN-STAT: To get a comprehensive picture of the circumstances of the arms exports it is crucial to question the right witnesses. Which criteria were used to choose the witnesses? We are asking because it seems very surprising that the whistleblower and main informant from Heckler & Koch is not supposed appear on the witness stand.

Att. Rothbauer: Well, I was as surprised as anyone! My request to legally assist the informant was denied with the explanation that the court are at this point not planning to interview this important witness. I do hope that this is not a sign that already so called “Deals” are being brokered behind the scenes.

Question GN-STAT: The Heckler & Koch GmbH is tied up in this criminal case and itself occupies a spot in the dock. How would you evaluate this construct?

Att. Rothbauer: This too amazes me. Germany does not have criminal justice legislation for companies, so in and of itself a company cannot be charged. The only

scenario I can think of is that a possible skimming of excess profits from the illegal part of the Mexico-Deal and for potential regulatory offenses committed against the War Weapons Control Act and Trade Laws, which have put the company Heckler & Koch in the dock. It is a really important result of our complaint that the entire public can now recognize the Heckler & Koch company with their names and faces as the responsible actors in the business of death that they really are.

Question GN-STAT: As a lawyer you extended the complaint against the responsible government officials in November of 2012 – two years after the original complaint against former Heckler & Koch employees. Shouldn't these officials from the Federal Ministry for Economic Affairs (BMWi) and the Federal Agency for Export Control (BAFA) also be facing trial on May 15th?

Att. Rothbauer: I just couldn't imagine Heckler & Koch themselves had come up with the idea of dividing Mexico up into safe and unsafe states. Because evidence was slowly emerging in 2012 that suggested the plan may have originated at the Foreign Office and the Ministry of Economic affairs I extended my complaint in 2012 with a letter to the Stuttgart DA's office to include the sections at the Federal Agency for Export Control and the Ministry for Economic Affairs which are responsible for the permission of war-weapons.

Question GN-STAT: Yet the seats of the officials from the BMWi and BAFA remain empty – what happened?

Attorney Rothbauer: Only when I asked about the officials in the context of a complaint against the Stuttgart DA's office for shelving the investigation into 13 more H&K employees the DA's office assigned a new docket number (from 2015) to the case. Then they closed the investigation again a few weeks later. This is a scandalous course of events in a constitutional state...

Question GN-STAT: ...which leads to the situation that from the so called "triad of death" – H&K, BAFA and BMWi – so far only a few H&K employees have been charged. The involvement of the BAFA and BMWi officials is highlighted in the documentary "How the G36 got to Mexico" (Wie das G36 nach Mexiko kam) and the book "Network of Death" (Netzwerk des Todes). What is your assessment of the DA, Peter Vobiller's actions to close the investigations against the officials after a very short time? Is this an official of the Stuttgart Judiciary – the then DA Vobiller – protecting the officials from the control agencies BMWi and BAFA from prosecution and punishment?

Att. Rothbauer: I do not see a way to disprove that hypothesis. From the beginning, in the end of April of 2010, the DA Peter Vobiller has made it clear to me that he is not interested in this investigation. But since the evidence which we presented to his office were so unambiguous he had no choice than to charge at least a few Heckler & Koch employees. The fact that among the remaining six defendants we find a mere staffer of the marketing department but not a single official from the permitting and controlling agencies I think is the embarrassing continuation of the game of "Sacrificing Pawns" and scapegoating which has been played by Heckler & Koch and the German Federal Government.

Question GN-STAT: In your opinion what's behind these tricks and deals?

Att. Rothbauer: From my perspective the current criminal trial is only trying to achieve a relatively face-saving outcome for Heckler & Koch to keep them in the race for a contract to supply the new Bundeswehr assault rifles as well as making sure Peter Beyerle, this “honorable member of the judicial-family”, does not have to go to prison.

Question GN-STAT: In conclusion: According to Article 26 (2) of the Grundgesetz the Federal Government is responsible for arms export policy. Mexico was, from 2006 to 2009, a trial ground for a completely new form of the arms trade. The experiment initiated by the government lead by Angela Merkel (CDU), Franz Müntefering and (starting in November of 2007) Frank-Walter Steinmeier (both SPD) looked like this: In India and in Mexico they tried for the first time if it could work to export war weapons to at least parts of a previously barred country such as Mexico. Agreements were supposed to ensure the weapons stayed in the supposedly calm provinces. The result was disastrous, countless people have since then been shot with G36-Rifles. Which political consequences do you draw from this disaster?

Att. Rothbauer: We finally need a proper implementation of Article 26 (2) of the Grundgesetz in a single Federal law – a arms export control law, which deserves its name. The constitutional rule that everything is forbidden, which has not explicitly been allowed must be adhered to again! It has to be possible to control agreements made for the final destination of the arms, otherwise they are not worth much. We must introduce a right of action for Non-Governmental Organisations such as the “Aktion Aufschrei – Stoppt den Waffenhandel”. This way legal action could be taken against wrongful permissions given by the government. Under no circumstances must weapons be exported to countries such as Mexico, where the human rights situation is dire, and thousands of people die [from violence] each year. Actually, we have very good gun legislation with good control and safety mechanisms in place in Germany. Internationally, however, Germany acts like the National Rifle Association, the NRA in the United States: Germany delivers, delivers and delivers some more until the small arms have reached every war-torn country on the planet and are in the hands of dictators, human rights abusers and even child soldiers everywhere. This must stop!

Question GN-STAT: Mr. Rothbauer, the GN-STAT thanks you for the Interview.

Contact

Holger Rothbauer, Lawyer
DEHR-Anwälte
Österbergstr. 9, 72074 Tübingen
Tel.: 0049-(0)7071-150 49 49
e-mail: anwaelte@dehr.eu

Translation

Ruth Rohde for GN-STAT