

Belgium: government seeks to block war crimes case against US General Tommy Franks

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The Belgian government has intervened to block a war crimes case against US General Tommy Franks. The lawsuit, lodged with the federal prosecutor's office in Brussels on May 14, accuses Franks of being responsible for war crimes carried out during the US war against Iraq.

Jan Fermon, the lawyer acting for the 19 plaintiffs, told the World Socialist Web Site, "One of the main groups of charges is that US forces fired at and bombed civilian targets. We are not speaking here about what is generally called 'collateral damage.' It doesn't involve people who were simply too close to a military target. It involved deliberate attacks on civilians, as distinct from what is generally called collateral damage."

"Another charge is that US forces attacked the press, and specifically the offices of Al Jazeera. The case clearly shows this was a deliberate attack. There were several attacks on press offices and on the Palestine Hotel, where journalists were staying. It was a coordinated attack on the press. The attack on the Al Jazeera offices was carried out by a tank-buster plane; it was very deliberate and specifically aimed at the Al Jazeera offices."

(See: Interview with Jan Fermon)

Fermon, who also acted in the 2001 Rwanda war crimes trial—the first (and only) successful prosecution under Belgium's "universal jurisdiction" law, said that military chiefs were obliged to stop war crimes. As commander-in-chief, General Franks was responsible for the way in which his men acted on the ground.

The lawsuit against Franks details five particular war crimes: the deliberate bombing of civilian neighbourhoods; attacks on the press (in particular the killing of an Al Jazeera journalist); the use of cluster

bombs against civilians; the targeting of medical personnel and infrastructure; and not acting to prevent looting.

Moving rapidly to try to quash the case, a spokesperson for Belgian Prime Minister Guy Verhofstadt said that an extraordinary cabinet meeting would be convened this week "permitting us to invoke the new law of universal jurisdiction, putting a stop to the legal action against General Franks."

Belgium first enacted the law of "universal jurisdiction" in 1993, enabling Belgian courts to hear cases involving war crimes and crimes against humanity even if they were committed abroad and did not involve Belgian citizens.

After a number of high-profile lawsuits were filed citing the "universal jurisdiction" law, most recently against George Bush Snr. and Colin Powell for actions during the first Gulf War in 1991, the Belgian government passed an amendment in April 2003 effectively gutting the law.

The amended law makes it much harder to bring a case where neither the victim, plaintiff or the accused are Belgian. In contravention of the democratic norm separating the powers of the executive and judiciary, as it now stands, the law allows the Belgian government to intervene directly in cases and refer them to another jurisdiction—either that of the accused, the victims or an international court.

Jan Fermon had filed a suit on behalf of 17 Iraqis and 2 Jordanians accusing General Franks of war crimes. The case is based in part on testimony collected by members of Brussels-based Médecine pour le Tiers Monde (Medicine for the Third World), who were in Baghdad between March 16 and April 22 and who

recorded video statements from eyewitnesses and the relatives of civilians killed in US attacks. Dr Colette Moulaert and Dr Geert Van Moorter also accuse coalition forces of deliberately targeting medical facilities and ambulances.

Fermon told *Radio Free Liberty*, “Again and again, they were asked by the victims and their families and the medical personnel with whom they were working if there was any possibility to hold someone accountable for these very serious human and civilian casualties. So that’s why the doctors finally asked me to find out if there was any possibility to get an independent inquiry on this because that’s the first objective of this, to get an independent investigation, and to eventually establish through this investigation responsibilities and in some way to get the case to justice.”

The lawsuit immediately unleashed a trans-Atlantic political storm, as US administration officials and senior military figures pressed the Belgian government to quash the case, under threat of “diplomatic consequences,” according to BBC Washington correspondent Justin Webb.

Brussels daily *Le Soir* quoted State Department spokesperson Philip Reeker saying that the US “certainly expects the Belgian government to take the necessary steps to reject this legal action.”

General Richard B. Myers, chairman of the Joint Chiefs of Staff, said, “It’s looked upon by the US government as a very, very serious situation... and it could clearly have an impact on where we gather,” implying that it could make Belgium a no-go area for NATO meetings.

Echoing Washington, Belgian Prime Minister Verhofstadt and Foreign Minister Louis Michel called the case a “political abuse” of the law of universal jurisdiction.

Fermon told the WSWS, “All court cases related to international events like war or international terrorism are political, in that way. The problem is to find some way to get accountability and justice for the victims, that is the main aim of the lawsuit.”

The case cites more than a dozen specific incidents violating international law, including:

- * The deliberate use of firearms and bombing against unarmed civilians. One plaintiff accuses US soldiers of targeting them as they attempted to buy bread on April 15.

- * Assaults on members of the press, in particular the attack on the offices of Al Jazeera in which journalist Tariq Ayoub was killed on April 8.

- * The use of cluster bombs in civilian areas. Several plaintiffs report children being wounded by these munitions lying in the street.

- * Attacks on medical personnel and institutions. The lawsuit cites three separate attacks on Iraqi ambulances. One plaintiff accuses US forces of attacking an ambulance transferring the wounded to Al Kindi hospital on April 9, and another of killing two pregnant women being taken to hospital in an ambulance on April 7; the third ambulance was targeted on April 9 as it entered the Al Liqa'a hospital.

- * Allowing the plundering of civilian and cultural institutions. The suit cites the Al Beit Al Iraqi cultural centre in Baghdad being plundered, although American tanks were closely monitoring the area.

The Belgian federal prosecutor’s office must decide within one month if there is a case to answer. However, Federal Prosecutor Serge Brammertz announced last Friday May 16 that in his opinion the suit should not be heard in Belgium.

Washington has clearly exerted maximum pressure on Belgium to ensure that no US military leader faces trial for war crimes in the Belgian courts, which, given American refusal to submit to the International Criminal Tribunal in The Hague, is the only jurisdiction where such a charge could presently be heard.



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