

**Cochem District Court
Ravenstrasse 39
56812 Cochem**

In Re: 2010 Js 60864/18

**JOHN MICHEAL LA FORGE
1 February & continuation 2021**

Testimony and Evidence

JUDGE ZIMMERMANN,

My name is John La Forge. I am 64 years old, am a U.S. citizen, and I've worked in the peace and anti-nuclear movement since 1979. I am employed by the peace organization Nukewatch in the U.S., and have been since 1988, as a researcher, editor of *Nukewatch Quarterly*, and co-director. In my first job for Nukewatch, I traveled some 30,000 miles over a 3-month period to research all 1,000 land-based intercontinental ballistic missile (ICBMs) sites then in the United States. The research was for the Nukewatch book *Nuclear Heartland* which featured the first public atlas detailing the exact locations of the giant ICBMs. This bewildering, awe-inspiring, and shocking experience changed my consciousness and my life.

I wish to present 1) my personal testimony; 2) a formal declaration by the international law expert Anabel Dwyer; 3) judge Bernd Hahnfeld's position paper on the illegality nuclear sharing, and Anabel Dwyer's declaration supporting Mr. Hahnfeld; and 4) the written "Appeal to the Personnel of Büchel Air Base" that I wrote which was carried into the base and read aloud on 15 July 2018.

Evidence

On July 15, 2018, I was among one of five groups that entered the base. I carried an "Appeal to the Personnel of Büchel Air Base" that I wrote, which warned the soldiers and officers there about laws of war and international treaties that their work violates. Eighteen of us entered the base in daylight, on Sunday, in five places and then walked around inside the base unhindered by military security. After being detained by some soldiers, our statement was read aloud by me to the soldiers, who took a copy and said they would deliver it to higher authorities.

On August 6, after getting into the base, walking through some woods, and crossing a base road, I took photos, and two of us climbed atop a nuclear weapons

bunker (protected aircraft shelter). We rested and observed from there for over an hour. When we climbed down we wrote on the steel door of the nuclear weapons bunker (protected aircraft shelter) near where we were detained; we wrote “B61 = Suicide,” and “Disarm all nuclear weapons: immoral, illegal.” This writing went unmentioned in the charging papers. We did not intrude “up to the runway” on Aug. 6, as the charging papers claim. We were never on or near the runway, and were detained a long way from the runway.

The officers of the court here have many years of experience interpreting and enforcing the law, and, before that, years of academic study. My experience is not so different. Between 1981 and 2006, I served altogether four and one-half years in jail and prison for peaceful protests against illegal U.S. planning of attacks with nuclear weapons, and for protesting its unlawful teaching of torture methods to soldiers. Those long months of incarceration gave me time to study human rights, international humanitarian law, and to read the great practitioners of nonviolent resistance to government wrongdoing. Our protest and resistance actions are not anarchy, but a high-level respect for this law and civic responsibility. It is the U.S. and German governments and their courts that promote anarchy, by violating binding treaties and domestic laws regarding nuclear weapons. Their courtroom appeals to “law and order” are comic and hypocritical.

Affirmative defense of nonviolent crime prevention

In a 1984 trial where I and my partner were charged with doing \$36,000 damage to prototype nuclear missile attack guidance computers for U.S. ballistic missile submarines known as Tridents, we presented a similar defense then as here today. We were found guilty by the jury, but at the sentencing hearing, Senior U.S. Federal District Judge Miles Lord declared: “They have made a plausible argument that international law forbids what our country is doing by way of manufacturing weapons of mass destruction.”[1] We were sentenced us to six months of unsupervised probation. (Judge Lord’s sentencing remarks submitted for the record.)

This startling statement from the Federal Court was an authoritative validation of our defense. I have been making the same argument for the past 37 years.

In a 2004 case, three friends and I were found “not guilty” of a trespass charge like the one here. We argued that international law gave us the legal right to demand to see the manufacturer of radiological weapons called “depleted uranium” shells.

Like my defense here, we argued that international law prohibited the manufacture of poison weapons of mass destruction and was superior to the trespass law. In 2017, the adoption of the Treaty on the Prohibition of Nuclear Weapons authoritatively verified and positively emboldened my position regarding the illegality of nuclear weapons. In 1996, I was a paralegal assistant to disarmament activists charged with sabotage for collapsing antenna poles and closing down the Navy nuclear submarine transmitter in Wisconsin. They too were found “not guilty” after expert witnesses explained the purpose of nuclear submarines, the effects of nuclear attacks, and the laws that forbid planning of mass destruction. These acquittals convince me that the law is on our side and to keep pushing the courts to recognize and enforce international law.

My experience of trials like these makes me familiar with the judges’ and prosecutors’ warnings against anarchy, and of the need to protect property rights. I am accustomed to hearing that my defense testimony is not relevant, and a waste of valuable time. These clever lectures are designed to shock and distract, and to pull the wool over the public’s eyes. They trick some people into thinking that public protests against nuclear weapons – the real and the worst threats of property damage and of trespass on Earth – are chaotic stunts or mere vandalism. On the contrary, my actions on July 15 and August 6 are demonstrations of respect for, and obedience to the highest laws of the land, and my hope is to expose and help bring to an end the government’s unlawful plans to commit premeditated, genocidal, atomic violence.

Often times, my evidence has been called “irrelevant.” But what I’ve learned is that what is irrelevant in these courtrooms is the evidence of trespass and damage to fences. It is irrelevant because most of the facts are not in dispute. On 15 July I entered to deliver a written appeal to personnel on the base; and on Hiroshima Day 2018 I went in to inspect the premises for evidence of and bring attention to international treaty violations.

The evidence that is relevant in this case is whether or not I “illegally” intruded into military premises. It is the prosecutor’s burden to prove that I intruded “illegally.” And my task is to show that my intrusions were not illegal, but reasonable interventions taken for a lawful purpose.

When assessing guilt or innocence in criminal cases, all civilized courts recognize extenuating circumstances – “affirmative defenses” – that provide a reasonable

excuse and free the accused of guilt. These include self-defense, defense of others, defense of property, duress, coercion, necessity, choice of evils, crime prevention, prevention of a public catastrophe, privilege under international law, mistake of law, etc.

The allegations against me for minor damage to property and civil trespass are insignificant and trivial when set against the routine ongoing criminal conspiracy to commit massacres using nuclear weapons which is practiced regularly at air base Büchel. A fire fighter rushing into a burning building to save someone inside is not charged with “damage to property” if a door or window is broken. The firefighter’s “damage to property” is excused because of the greater good of seeking to prevent or to avoid harm. In such a case, when reasonable persons consider the ‘competing harms’ of damage to property on one hand, and injury to a person or the loss of life on the other, the damage to the door is obviously the lesser harm.

But what of a fire not yet burning, but a fire being planned, rehearsed, is intended and set to ignite? And what if the premeditated mass arson is the burning of a city of 10 million people – or the burning of 20 cities, one each for the 20 U.S. B61 thermonuclear bombs armed and loaded at Büchel air base?

Of course I could not expect my simple actions with my colleagues to immediately halt the air base’s unlawful threats of, and practice for nuclear attacks. What an unlikely idea. I hoped our actions would educate the public and the personnel at the Büchel air base about the unlawful nature of nuclear attack practice and someday lead to its cessation. The State of Pennsylvania’s Superior Court Justice J. Spaeth made this point in the 1985 case opinion in *Commonwealth v. Berrigan*:

“... [Defendants] belief was that their action, in combination with the actions of others, might accelerate a political process ultimately leading to the abandonment of nuclear missiles. And that belief, I submit, should not be dismissed as ‘unreasonable as a matter of law.’ But that is for a jury to say, not a court.”[2]

Treaty laws forbid planning indiscriminate destruction

The United States, which deploys its nuclear weapons at the NATO air base Büchel,[3] was instrumental in establishing, and is a party to, the 1945 Charter of the International Military Tribunal at Nuremberg. The Nuremberg Tribunal determined there was individual responsibility among private individuals under

the principles of international law. This principle has been incorporated into the pantheon of international law.

The eminent international law scholar Professor Francis A. Boyle, writes, “[T]he Nuremberg Principles have universally been considered to constitute an authoritative statement of the rules of customary international law dictating individual criminal responsibility for crimes against peace, crimes against humanity, and war crimes.”[4]

To prevent a repetition of the monumental horrors of the Nazi era, the law of war was fiercely strengthened at Nuremberg. Since the establishment of the Nuremberg Charter and Principles, international law has prohibited the “planning” or “preparation” of “a war in violation of international treaties, agreements, or assurances” including the massacres caused by nuclear weapons attacks.[5] From then (1945) on, not only was the *commission* of indiscriminate destruction unlawful. Since then, the planning of mass destruction is a criminal conspiracy *before the fact*.

The United States position at Nuremberg was that individuals who participated in the planning of a war “in violation of international treaties,” committed war crimes *before the fact*. This argument was made by Justice Jackson, Chief Prosecutor for the United States at Nuremberg: “The case presented by the U.S. will be concerned with the brains and authority back of all crimes... We want to reach the planners and designers, the inciters and leaders...”[6]

To paraphrase Justice Jackson in the context of our new Earth shattering nuclear arsenals: “To conduct an attack with nuclear weapons is not only an international crime, it would be the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.”

Germany and the United States are parties to the Charter of the United Nations, which has been adopted as a Treaty. Under the Charter of the United Nation’s Article 93, all member states are parties to the Statute of the International Court of Justice (ICJ), which has also been adopted as a Treaty. The Statute of the ICJ is therefore entitled to the benefits of the supremacy clauses of the United States Constitution (Art. VI) and the German Basic Law (Art. 25).

The ICJ is the principal legal organ of the United Nations, and its Article 38 is the understood as the most authoritative inventory of the sources of International Law. Fundamental to my defense is that the Nuremberg Charter is recognized as international law in Article 38 of the Statute of the ICJ.[7]

Germany and the United States are both parties to nearly all the major international laws of war. Taken together, these treaties provide citizens a lawful privilege to peacefully and reasonably inspect, investigate, interrupt or interfere with government conduct suspected of violating these fundamental rules. I submit that I have a positive defense in this case of privilege under international law, the treaties binding on the government of Germany under the Basic Law and binding on the U.S. government under the Constitution of the United States.

Positive defense of privilege under international law

The Büchel air base with its U.S. hydrogen bombs creates a threat of mass destruction that violates international law. This fact was declared in the 1985 *Jarka* case of nuclear weapons protesters in the U.S. State of Illinois, by Judge Alphonse F. Witt. Judge Witt instructed the jury saying: “The use or threat of use of nuclear weapons is a war crime or an attempted war crime because such use would violate international law by causing unnecessary suffering, failing to distinguish between combatants and noncombatants, and poisoning its targets by radiation.”[8] The defendants were found “not guilty.” The not guilty verdict did not result in anarchy.

German courts have found that more “suitable, appropriate means of averting a danger” [9] – alternative to violating the trespassing law – are available to me. Yet it is possible to show that the alternatives often suggested such as speech on public streets, in parks, in auditoriums, the release of information to the news media, lobbying government representatives through letters, petitions and the like, that have been practiced by me and millions of others for decades, can be shown to be unreasonable and naive regarding nuclear weapons.

For example, the defendant may show that despite overwhelming public support for the removal of U.S. nuclear weapons from Germany, including Germany’s cross-party Parliamentary resolution of 26 March 2010, calling for the government to negotiate inside NATO for the removal of the weapons, no progress has been made. In fact, costly plans are now underway to tear up the 2010 mandate and instead of ousting the bombs, replace the existing U.S. B61 nuclear weapons in Germany with brand new H-bombs known as B61-12s beginning as soon as 2024.

It appears that the “suitable, appropriate” means have been nullified if they were not a ruse.

Additionally, nuclear lawlessness was evidenced by the U.S. government’s violation of the Non-Circumvention Clause of Article 12 of the SALT II Treaty, by its deployment of Pershing II and Cruise missiles in the Federal Republic of Germany in the 1980s. Examples of recent international U.S. crimes include the 2003 bombardment and invasion of Iraq, done without UN Security Council authorization; its use of torture against kidnapped suspects around the world, and the shocking recent death squad-like assassination of Iranian major general Qasem Soleimani, five Iraqi nationals and four other Iranian nationals with a drone strike – all of these actions done in blatant disregard of the United National Charter and the Geneva Conventions.

Having so much evidence of acts of international lawlessness by the United States, I believe it was reasonable, suitable and appropriate to nonviolently attempt to inspect, interrupt, and raise an alarm over the joint German\U.S. operations at the NATO air base Büchel before its illegal nuclear attack preparations take a similar turn.

Germany courts have held that the routine planning and training for nuclear attacks using the U.S. nuclear weapons at NATO air Base Büchel, is not a “sufficiently concrete danger” and a “solely abstract possibility,” and therefore not an urgent enough crime or event to require civil intervention on my part.[10] I believe this position is a willful denial of the present-day “launch on warning” nuclear weapons attack policies and plans, including “first-strike” or “counterforce” attack plans, which have caused hundreds near nuclear attacks by accident, miscalculation, and mistake. I ask the Court to take notice of a news report in the New York Times, October 10, 1981, at p. A10, column 1, which reported that during an 18-month period the U.S. North American Aerospace Defense Command experienced 151 false alarms, four of which were serious enough that U.S. B-52 bomber crews and Inter-Continental Ballistic Missile crews were placed in alert.

The question of a “concrete danger” was in a 1984 trial where I was charged with damage to computers for directing nuclear-armed missiles fired from Trident submarines. When the prosecutor said I could not prove that the danger of nuclear war was “imminent”, the presiding judge interrupted him in mid-sentence.

Senior U.S. Federal District Court Judge Miles Lord nearly shouted from the bench: “He doesn’t have to prove ‘imminence.’ We could all go at any minute.” [11]

Further, the journal *Bulletin of the Atomic Scientists* has publicly set its famous “Doomsday Clock” to “100 seconds to midnight,” calling the danger greater than it has been since 1947.[12] The clock is the international scientific group’s best assessment of the current danger of an outbreak of nuclear attacks.

The court’s position that the risk of nuclear attacks is “solely abstract” and not “sufficiently concrete” is, I believe, a shocking and dangerous misstatement of fact. It indicates a flippant and disinterested *mode of thinking* regarding nuclear weapons reality. It is the reason Albert Einstein warned everyone: “The unleashed power of the atom has changed everything save our modes of thinking, and thus we drift toward unparalleled catastrophe.”

Civil resistance or nonviolent interference with NATO air base Büchel is not an unlawful offense, but an act of crime prevention and raising a public alarm. The law of nations and of the United States and Germany require that citizens refuse to condone, participate in, or ignore criminal governmental conspiracies to commit war crimes, and these binding laws establish a duty to interfere with government conspiracies to commit war crimes. My freely taken acts of warning and inspection at NATO air base Büchel were a civic duty, a lawful obligation, and acts of attempted crime prevention.

Rehearsals and schooling for European mass destruction at Büchel

Routine preparations and rehearsals for attacks with U.S. nuclear weapons are regularly conducted by the U.S. Air Force 702nd Munitions Support Squadron and the German Air Force’s 33rd Fighter-Bomber Wing. It is often reported. Headlines from October 2020 included, “NATO Holds Secret Nuclear War Exercises in Germany;” “German Air Force training for nuclear war as part of NATO;” and “NATO Holds Secret Nuclear War Exercises in Germany.” From 2017, “NATO nuclear weapons exercise unusually open.” In 2015, “NATO nuclear weapons exercise Steadfast Noon in Büchel.”[13]

The U.S. military also plans and prepares nuclear attacks at its Defense Nuclear Weapons School [DNWS] of the Air Force Nuclear College. One branch school is at the Ramstein air force base in Germany. Others are in New Mexico, Florida, Texas, Georgia, Oklahoma, and Ohio. Outlines for the ghastly coursework can be read

on the Air Force Nuclear College website: <https://cs3.eis.af.mil/sites/OO-AQ-MC-95/default.aspx> [14]

According to the school's website, it "is responsible for delivering, sustaining and supporting air-delivered nuclear weapon systems for our warfighters ...every day." "Programs managed by the directorate include the B61-12 Life Extension Program." The B61-12 hydrogen bombs are scheduled to be deployed at NATO air base Büchel replacing the current B61s on the base. Two nuclear weapons school courses are outlined on the school's website as:

1) "Theater Nuclear Operations." – "a 4.5-day course that provides training for planners, support staff, targeteers, and staff nuclear planners for joint operations and targeting. The course provides an overview of nuclear weapon design, capabilities, and effects as well as U.S. nuclear policy, and joint nuclear doctrine.... Objectives: ... Understand the U.S. nuclear planning and execution process...; Understand the targeting effects of nuclear weapon employment...]" and

2) "Integrated Munitions Effects Assessment", "...a five-day course that provides students...proficiency in importing and creating target models, developing attack plans using conventional or nuclear weapons, performing consequence assessment to WMD scenarios...." Students "will be able to import, edit, and modify target sites...; Calculate probabilistic attacks against predefined targets; [and] "develop attack plans using either conventional or nuclear weapons ..." [14]

Air force fighter jet rehearsals for attacks with nuclear weapons, and air force schools teaching the targeting of nuclear weapons are precisely the planning and preparations that Nuremberg law was designed to prohibit. They also violate the Treaty on the Nonproliferation of Nuclear weapons (NPT) Articles 1 and 2[15], the United Nations Charter and other binding international laws ratified by the United States and Germany. Treaties are recognized as the supreme law of the land in the U.S. Constitution at Art. 6[16], and in Germany's Basic Law at Art. 25, Art. 31 and Art. 34.

The Basic Law of the German Federal Republic at Article 31 says: "Federal law shall take precedence over Land law"; Article 25 says: "The general rules of international law shall be an integral part of federal law. They shall take precedence over the laws and directly create rights and duties for the inhabitants

of the federal territory.” Article 34 says: “If any person, in the exercise of a public office entrusted to him, violates his official duty to a third party, liability shall rest principally with the state or public body that employs him. In the event of intentional wrongdoing or gross negligence, the right of recourse against the individual officer shall be preserved.” [17]

Weapons effects well known in advance

The reason nuclear attack threats are unlawful is that the effects of the detonation of hydrogen bombs near inhabited areas are well-known, inevitable and intentional massacres, caused by the bombs’ uncontrollable, indiscriminate, and city-size blast destruction, ferocious mass fires, and from vastly widespread radiation burns and radiation-related disease and genetic damage. Deliberately planning to cause these effects is prohibited because of treaties binding on Germany and the U.S. as Anabel Dwyer’s Declaration makes clear. And official government nuclear attack planners had publicly documented that their work was to plan and threaten mass destruction.

Daniel Ellsberg was an advisor to Secretary of Defense Robert McNamara and to the White House. Ellsberg drafted Sec. McNamara's plans for nuclear war. Ellsberg wrote in 2016 about his planned 1961 U.S. nuclear attacks on Russia, attacks that are still readied and rehearsed at Büchel air base, “I recall that the plan called for a total of forty megatons – *megatons* – on Moscow, about for thousand times more than the bomb over Hiroshima and perhaps twenty to thirty times more than all the non-nuclear bombs dropped by the Allies in both theaters during more than four years of WWII...” [18]

This horrifying prospect was known across the U.S. attack planning staff. Ellsberg wrote in 2016: “... our private, top-secret estimates were that we would kill every European, a hundred million Europeans, *without a single U.S. or Soviet warhead landing on West Europe*. [emphasis added] Just from the fallout of the attacks we were planning on Russia and East Europe. One hundred million ...”[19] Ellsberg reports that after a planned U.S. first-strike, “Western European Allies in NATO would be quickly annihilated...from the close-in fallout from our own nuclear strikes...”[20] Ellsberg continues: “Fallout from our surface explosions in the Soviet Union, its satellites ... would decimate the populations ... in all the neutral nations bordering these countries – Finland, Sweden, Austria and Afghanistan, for example...” [21] Attacks on neutral nations are of course prohibited in all cases by the Geneva Conventions.

These estimates of self-directed mass destruction were known in high places in Germany. The future Chancellor Helmut Schmidt shouted alarm at these plans, exclaiming in 1962 that the use of U.S. nuclear weapons “will not defend Europe, but destroy it.”[22]

Dr. Paul Nitze was Secretary of the Navy at that time, and was later a personal military advisor to President Ronald Reagan. In retirement Nitze wrote, “I can think of no circumstances under which it would be wise for the United States to use nuclear weapons, even in retaliation for their prior use against us.”[23] Even Admiral Noel A. Gayler, former Commander-in-Chief of U.S. forces in the Pacific, said, “There is no sensible military use of any of our nuclear forces.” [24]

Closing

Over the past four decades, I’ve been a part of successful civil resistance actions and campaigns in pursuit of eliminating and abolishing nuclear weapons. U.S. nuclear war planners have actually planned and prepared to use their nuclear weapons in attacks on the Eastern Europe that they knew would kill 600 million people, according to Daniel Ellsberg, who helped design these plans.[25] In his book *The Doomsday Machine: Confessions of a Nuclear War Planner*, Ellsberg bluntly calls this: “A hundred holocausts.”[26] And our ongoing nuclear threat, known as nuclear deterrence, has lead Professor Francis Boyle to write me in an email February 8, “Tell the judge that the nuclear weapons in Germany are conspiracy like shower heads in the Nazi death camps about be turned on”, times one hundred.

Prof. Boyle writes, “In its Advisory Opinion of July 1996, the International Court of Justice ruled unanimously in paragraph 105(2)(C) that: ‘A threat or use of force by means of nuclear weapons that is contrary to Article 2, paragraph 4, of the United Nations Charter and that fails to meet all the requirements of Article 51, is unlawful.’ “It is obvious from reading the World Court’s Advisory Opinion that any currently contemplated threat or use of nuclear weapons by the United States government is illegal under international humanitarian law, and therefore I would add, criminal.”[27]

In the 1984 case I mentioned earlier, Senior U.S. Federal District Judge Miles Lord set me and my partner free rather than imprison or even fine us. Like Germany’s Helmut Schmidt before him, Judge Lord was flabbergasted by nuclear attack plans

that cause hundreds of millions of deaths. The Judge asked, “Why can we even entertain the thought that all people on one side of an imaginary line must die and, if we be so ungodly cynical as to countenance that thought, have we given thought to the fact that in executing that decree we will also die? ... How many of the people in this democracy have seriously contemplated the futility of committing national suicide in order to punish our adversaries?”[28] Judge Lord’s extraordinary statement was heard and published around the world; its educational value, and the Judge’s decision not to punish our disarmament conviction, can be seen as a successful result of civil resistance to self-destructive nuclear madness.

In 1988, our Nukewatch book *Nuclear Heartland* was published showing the public exactly where the U.S. inter-continental ballistic weapons were placed. The book inspired hundreds of protests, rallies, marches and civil resistance actions for which dozens were imprisoned, some for many years. By 2015, when I co-edited a second edition of *Nuclear Heartland*, the total number of ICBMs had been cut from 1,000 to 450.

In 1990, a U.S. communications system called Ground Wave Emergency Network, designed for use during and after general nuclear war. The system was canceled after a group of us joined the public uproar against the thermonuclear war “survival system” and were sent to jail for 45 days for interrupting part of its construction in Wisconsin.

In 2000, the U.S. Marine Corps canceled its “mock invasions” of public parks – a recruitment stunt the Navy said was aimed at 9-year-old kids – when five of us were jailed for one week for interfering with the “invasion.”

In 2004, a jury in Minnesota’s Circuit Court found me and three others “not guilty” of trespassing after we provided evidence that international law forbidding the use of poison excused our refusal to leave the premises of a manufacturer of uranium munitions used against civilians in Iraq.

In 2004, after a 15 year-long Nukewatch-coordinated campaign of nonviolent civil resistance that saw over 100 people jailed for a total of 11 years, the U.S. Navy’s nuclear first-strike signaling antenna called “Project ELF” (for extremely low frequency), was terminated.

In 2017, 2018 and 2019 I helped organize delegations of U.S. peace activists to Germany to participate in protests against the U.S. nuclear weapons at Büchel, and our efforts produced dozens of reports in the commercial and social media that the U.S. H-bombs are still here, and prompting citizens and parliamentarians alike to work harder for their removal.

On August 22, 2017, Martin Schulz, then the head of the Social Democrat Party and candidate for Chancellor, said, “As chancellor, I’d push for the ejection of nuclear weapons stored in Germany.”[29]

On August 29, 2017, German Foreign Minister Sigmar Gabriel said during a trip to the United States that he supported Martin Schulz’s demand that the U.S. nuclear weapons be removed. Meeting with then U.S. Secretary of State Rex Tillerson, Gabriel said, “I agreed with Mr. Schulz’s point that we need to get rid of the nuclear weapons that are in our country.”[30]

On 2 May 2020, Rolf Mützenich, current head of the Social Democratic Party, said that the presence of U.S. nuclear weapons on German soil is a danger to Germany's security and should be terminated. Mützenich told the paper *Tagesspiegel am Sonntag* that “Nuclear weapons on German territory do not heighten our security, just the opposite.” ... “The time has come for Germany to rule out a future stationing.”[31]

Mützenich defended his remarks on 7 May 2020, writing, “I spoke out in favor of not prolonging technical nuclear participation and not replacing the tactical U.S. nuclear weapons stored in Büchel with new nuclear warheads. Incidentally, the CDU [Christian Democratic Union] and CSU [Christian Social Union] also called for the withdrawal of nuclear weapons in the [2010] coalition agreement....”[32]

These successes convince me of the wisdom of Pennsylvania Superior Court Justice Spaeth’s opinion in *Commonwealth v. Berrigan*, noted earlier that, “...their action, in combination with the actions of others, might accelerate a political process ultimately leading to the abandonment of nuclear missiles.”[33] And these successes illustrate the strength of my argument that my actions on July 15 and Aug. 6, 2018 were a reasonable and appropriate means by which to expose and bring to and end the ongoing criminal conspiracy to commit mass murder taking place at Büchel air base.

I submit that using reasonable, nonviolent means to personally inspect, investigate, raise an alarm over, and even interfere with or stop obvious, ongoing

violations of binding international laws enacted to prevent massacres – even at the cost of committing infractions of petty domestic statutes – is both obedient to and respectful of domestic law and the fundamental rules of international humanitarian law (i.e., the Hague Conventions and the Geneva Conventions). It was not “unlawful” for me to gain entry to the air base without injuring anyone, because I did so for the perfectly lawful purpose of interfering with and eventually stopping ongoing U.S., German, and NATO crimes. I submit that citizens who become aware of the government’s conspiracy to commit the mass murder of hundreds of millions of people using nuclear weapons and firestorms are duty-bound to take whatever nonviolent action they can to help bring these crimes to an end.

Everyone who is aware of these crimes must send a bold message to the power elite in Germany, the U.S., and NATO that ordinary people will no longer tolerate the government’s military planning and preparation of massacres using nuclear weapons that constitute ongoing crimes against peace.

ENDNOTES

[1] United States v. LaForge and Katt, U.S. Federal District Court, District of Minnesota, Fourth Division, cr. 4-84-66, sentencing, November 8, 1984.

[2] Justice J. Spaeth, concurring, Superior Court of Pennsylvania, Com. of Penn. v. Berrigan, et al, 472 A.2d 1099, 1114-5 (Penn. 1984), No. 1959 Phila. 1981; Appeal from the Judgment of Sentence in the Court of Common Pleas of Montgomery County Criminal, No.2647-80, En Banc, p. 900\83-5.

[3] *De Morgen* [Antwerp], July 16, 2019, <https://www.demorgen.be/nieuws/eindelijk-zwart-op-wit-er-liggen-amerikaanse-kernwapens-in-belgie~b051dc18/>; Hans M. Kristensen & Matt Korda report that "Some tactical B61s in Europe are available for NATO [dual-capable aircraft] (F-16, PA-200). Up to 150 B61-3 and -4 bombs are deployed in Europe, of which about 80 are earmarked for use by NATO aircraft. The maximum yield of B61-3 is 170 kt; maximum B61-4 yield is 50 kt. See: United States nuclear forces, 2020, *Bulletin of the Atomic Scientists*, 76:1, 46-60, DOI: 10.1080/00963402.2019; <https://doi.org/10.1080/00963402.2019.1701286>

[4] Prof. Boyle, Francis A., "The Relevance of International Law to the So-Called "Paradox" of Nuclear Deterrence," ACDIS Occasional Paper, Program in Arms Control, Domestic and International Security (ADCIS), University of Illinois at Urbana-Champaign (1984), p. 12.

[5] Charter of the International Military Tribunal at Nuremberg, the London Agreement, Aug. 8, 1945, 59 Stat. 1544, E.A.S. No 472, 82 U.N.T.S. Yearbook of the International Law Commission, 1950, Vol. II, para. 97. Principle VI: The crimes listed below are punishable as crimes under international law: (a) Crimes against peace: (i) planning, preparation, initiation, or conduct of a war of aggression or a war in violation of international treaties, agreements, or assurances; (ii) participation in a common plan or conspiracy to carry out any of the acts listed in (i) above.

[6] The Trial of the Major War Criminals before the International Military Tribunal, II, 104-5, (1948).

[7] Article 38 of the Statute of the International Court of Justice provides: [1] The Court, whose duty it shall be to decide disputes submitted to it in accordance with international law, shall apply: the general or special international conventions establishing rules expressly recognized by the disputing States; international custom as evidence of a general practice recognized as law; the general principles of law recognized by civilized nations; subject to the provisions of Article 59, the judicial decisions and the teachings of the most qualified publicists of the various nations as aids in the determination of the rules of law. (<https://www.icj-cij.org/en/statute>)

[8] Judge Witt, People v. Jarka, No. 002170, Circuit Court of Lake County, Waukegan, Illinois, 1985]

[9] OLG Koblenz, decision, 09.04.2020, 4 OLG 6 Ss 35-37/20, where the court held "Actions of the defendants are also not a suitable, appropriate means of averting a danger".

[10] Zimmerman, judge, 5 Ns 2010 Js 60894\18, citing BGH 19, 371

[11] United States v. LaForge and Katt, U.S. Federal District Court, District of Minnesota, Fourth Division, cr. 4-84-66, trial transcript.

[12] *The Bulletin of the Atomic Scientists*, "Closer than ever: It's 100 seconds to midnight -- 2020 Doomsday Clock Statement" <https://thebulletin.org/doomsday-clock/current-time/>

[13] "NATO Holds Secret Nuclear War Exercises in Germany, Ignores Turkey," Oct. 15, 2020, <https://see.news/nato-secret-nuclear-war-exercises-germany-ignores-turkey/>; "Stop 'Steadfast Noon' Nuclear War Exercise Now!" Oct. 14, 2020; 2019 "Secret nuclear weapons exercise 'Steadfast Noon'", <https://www.bundeswehr-journal.de/2019/geheime-atomwaffenuerbung-steadfast-noon/>; 2017, "NATO nuclear weapons exercise unusually open," <https://www.bundeswehr-journal.de/2019/geheime-atomwaffenuerbung-steadfast-noon/>; 2015, "NATO nuclear weapons exercise Steadfast Noon in Büchel", <https://augengeradeaus.net/tag/steadfast-noon/>; Hans M. Kristensen & Matt Korda, *Bulletin of the Atomic Scientists*, Nuclear Notebook, published online: 13 Jan. 2020, pages 46-60, <https://doi.org/10.1080/00963402.2019.1701286>; Hans M. Kristensen and Matt Korda, "Tactical Nuclear Weapons, 2019," *Bulletin of the Atomic Scientists*, Vol. 75, No. 5 (2017), pp. 252–261

[14] See U.S. Air Force Nuclear College site: <https://cs3.eis.af.mil/sites/OO-AQ-MC-95/default.aspx>

[15] The Non Proliferation Treaty article 1 prohibits Germany from receiving nuclear weapons from the United States, and the NPT article 2 prohibits the United States from placing its nuclear weapons in other countries. <http://www.un.org/disarmament/WMD/Nuclear/NPTtext.shtml>.

[16] "U.S. domestic law has expressly incorporated international law by means of article 6 of the U.S. Constitution (i.e., the so-called Supremacy Clause), with respect to treaties, as well as by the famous decision of the U.S. Supreme Court in *Paquete Habana*, 175 U.S. 677 (1990), with respect to customary international law." Francis Boyle, *Defending Civil Resistance Under International Law* (Transnational Publishers, 1988) pp. 31

[17] The Basic Law of the German Federal Republic at Article 31 says: "Federal law shall take precedence over Land law"; Article 25 [Primacy of international law]: "The general rules of international law shall be an integral part of federal law. They shall take precedence over the laws and directly create rights and duties for the

inhabitants of the federal territory.” Article 34 [Liability for violation of official duty]: “If any person, in the exercise of a public office entrusted to him, violates his official duty to a third party, liability shall rest principally with the state or public body that employs him. In the event of intentional wrongdoing or gross negligence, the right of recourse against the individual officer shall be preserved. The ordinary courts shall not be closed to claims for compensation or indemnity.”

[18] Daniel Ellsberg, *The Doomsday Machine: Confessions of a Nuclear War Planner* (Bloomsbury 2017), p. 101

[19] Daniel Ellsberg, in *Things That Can and Cannot Be Said*, by Arundhati Roy and John Cusack (Haymarket Books 2016), p. 108

[20] Ellsberg, *The Doomsday Machine: Confessions of a Nuclear War Planner*, p. 99

[21] Ellsberg, *The Doomsday Machine*, p. 137

[22] Helmut Schmidt, *Defense or Retaliation?* (Praeger, 1962), p. 101

[23] Paul Nitze, “A Threat Mostly to Ourselves,” *New York Times*, October 28, 1999

[24] Robert McNamara, “The Military Role of Nuclear Weapons: Perceptions and Misperceptions,” *Foreign Affairs*, September 1, 1983, fn 1;
<https://www.foreignaffairs.com/articles/1983-09-01/military-role-nuclear-weapons-perceptions-and-misperceptions>

[25] Ellsberg, *The Doomsday Machine*, p. 137

[26] Ellsberg, *The Doomsday Machine*, p. 3

[27] Prof. Francis A. Boyle, Ph.D., *The Criminality of Nuclear Deterrence* (Clarity Press 2002) pp. 193, 202.

[28] United States v. LaForge and Katt, U.S. Federal District Court, District of Minnesota, Fourth Division, cr. 4-84-66, sentencing, November 8, 1984.

[29] *Frankfurter Allgemeine*, “Schulz demands the withdrawal of American nuclear weapons,” 23 August 2017;

<https://www.faz.net/aktuell/politik/bundestagswahl/martin-schulz-fordert-us-atomwaffen-abzug-aus-deutschland-15164011.html>

[30] *Frankfurter Allgemeine*, 30 August 2017; <https://www.faz.net/aktuell/politik/bundestagswahl/siegmar-gabriel-unterstuetzt-schulz-vorstoss-fuer-abruestung-15174786.html>; the *International Business Times* and the *Financial Tribune* online declared on Aug. 31, “Top German Politicians Want U.S. Nuclear Weapons Out,” noting, “Germany’s top diplomat has backed the suggestion of SPD leader and Chancellor hopeful Martin Schulz, who has pledged to rid his country of U.S. nukes.”

[31] Rolf Mützenich, "It's time Germany ruled out deployment in the future," *Tagesspiegel am Sonntag*, May 3, 2020; <https://www.politico.eu/article/german-social-democrats-tell-donald-trump-to-take-us-nukes-nuclear-weapons-home/>

[32] “A plea for a necessary and honest security policy debate,” IPG-Journal.de [*Journal for International Politics and Society*], 7 May, 2020; www.rolfmuetzenich.de/publikation/deutschland-nukleare-teilhabe

[33] Justice J. Spaeth, concurring, Superior Court of Pennsylvania, Com. of Penn. v. Berrigan, et al, 472 A.2d 1099,1114-5 (Penn. 1984), No. 1959 Phila. 1981; Appeal from the Judgment of Sentence in the Court of Common Pleas of Montgomery County Criminal, No.2647-80, En Banc, p. 900\83 – 5.