



The new death penalty law is questionable in terms of the rule of law

Summary:

- The Israeli parliament, the Knesset, has passed a new law for Palestinian terrorists from the West Bank who have murdered Israelis.
- The new law provides for the death penalty as the normal penalty in the event of a conviction by a military court.
- Conversely, the regulation does not apply to terrorists from the ranks of Israeli settlers in the West Bank.
- The law has been criticized by the opposition, circles within the Israeli security apparatus, the public prosecutor's office, human rights groups and also parts of the rabbinate.
- It is unlikely that the Supreme Court in Jerusalem will accept the law launched by the radical right.

By Sacha Wigdorovits [i](#)

Israel has had the death penalty since the state was founded in 1948, but it has only been carried out twice so far. The first time was during the 1948/49 War of Independence, when an Israeli officer was executed. He was accused of betraying secrets and sentenced by a military court in summary proceedings. In retrospect, the accusations proved to be false and the verdict a serious miscarriage of justice.

The second death sentence was carried out in 1962 against the notorious German Nazi criminal Adolf Eichmann. Eichmann was one of those mainly responsible for the implementation of the "Final Solution to the Jewish Question". In the course of this, the Nazis and their accomplices deported and murdered six million European Jews. In 1960, agents of the Israeli secret service Mossad tracked down Eichmann, who was living in Argentina under a false name, and abducted him to Israel in a spectacular operation. There he was subsequently brought before a civil court and

sentenced to death.



The last time a court in Israel carried out a death sentence was in 1962 during the trial of Nazi war criminal Adolf Eichmann. © Yad Vashem

Since then, no death sentence has been imposed by military or civilian courts in Israel, not even against Palestinian terrorists who were guilty of murdering numerous civilians.

Unilateral imposition of the death penalty without the possibility of appeal

According to the Israeli government and other far-right parties, this is now set to change, at least in part. This week, the Knesset passed a new law by 62 votes to 47 from the center-left opposition and Arab MPs. This makes the death penalty the rule for terrorists if they are convicted of murdering Israeli citizens. Military courts would be responsible for this.

The massacre of October 7, 2023, in which 1,200 Israelis and nationals of other states were murdered by Palestinian terrorists, had a significant influence on the creation of the new law. However, the perpetrators from Gaza at the time are not covered by the new law. It is intended exclusively for the West Bank, which is under Israeli control, and does not apply retroactively.



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The new law was primarily pushed for by Security Minister Itamar Ben-Gvir from the ultra-nationalist Otzma Yehudit (Jewish Strength) party. Prime Minister Benjamin Netanyahu finally agreed to it so as not to risk breaking the already fragile governing coalition. Prior to this, certain weakening adjustments had been made to an initial, even more extreme draft at his request.

However, these do not change the fact that the law is questionable in terms of the rule of law. One reason for this is that an appeal against a death sentence is excluded (although the Israeli president would still have the power to issue a pardon). In addition, the law only applies unilaterally to Palestinian terrorists from the West Bank who have murdered Israelis. On the other hand, it does not apply in the opposite case, when Israeli terrorists murder Palestinian residents of the West Bank (in such a case, it is not a military court but a civil court that has jurisdiction).

Such acts of terror are also conceivable. This is demonstrated by the increasingly frequent and violent attacks by ultra-nationalist settlers on Palestinian villages in the West Bank. The current right-wing foreign government in Jerusalem hardly intervenes against such actions.

Broad opposition - the Supreme Court will have to decide

It is uncertain whether the new law will ever become legally binding. This is because there is strong opposition to it not only within the Knesset, but also outside parliament. This includes human rights groups, the Attorney General's Office, representatives of the army and the domestic intelligence service Shin Bet, as well as some religious leaders, who generally reject the death penalty as a violation of Jewish law.

These groups are now calling on the Supreme Court in Jerusalem to declare the new law null and void. In the past, the Israeli Supreme Court has repeatedly restrained the current right-wing foreign government and declared its decisions invalid or demanded amendments. It can be assumed that this will also be the case with the new death penalty law.