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Focus

CNN, 20 March 2003

“U.S. Patriot missiles knocked two Iraqi missiles out of the sky on Thursday, hours after two others landed without injury near the U.S. forces' main logistics center in the Kuwaiti desert, the military said.”

The Guardian, 21 March 2003

“Four Iraqi missiles were fired into Kuwait yesterday near points where US and British troops were massing for invasion.

Two were widely reported to be Scuds. But the British government was cautious last night, saying it was awaiting confirmation.

There were no casualties and no suggestion that chemical or biological warheads were loaded on to the missiles. “

Kuwait now party to the armed conflict?

On March 20 Iraq has fired missiles at Kuwait according to reports from the US military and CNN reports
(<http://www.cnn.com/2003/WORLD/meast/03/20/sprj.irq.kuwait.rockets/index.html>).

The type of the missiles are yet not known nor their exact target. The questions is whether by that act Kuwait is now a party to the armed conflict. Undoubtedly humanitarian law is applicable to the parties to an armed conflict as soon as the conflict starts. Such missile attacks can be regarded as first acts of the war. Though the question is whether Kuwait has already been a party to the conflict when the hostilities were opened by the US last night. The attack started at approximately 9.30 ET. It has been reported that more than 40 satellite-guided cruise missiles were launched from three vessels -- the USS Donald Cook in the Red Sea, a submarine in the Red Sea and an unnamed Aegis cruiser in the Persian Gulf. Planes were also involved in the attack, dropping "bunker buster" bombs on the selected targets. Kuwaiti territory has not been used for these attacks. It not clear whether Kuwaiti air space has been used.

It has also been reported that special forces are operating already in Southern Iraq to identify targets. It has not been reported whether US and other forces have crossed the border from Kuwait into Iraq or not and whether Kuwaiti territory has been used for actual hostilities before the Iraqi-missiles were fired at Kuwait. If that has been the case in particular taking into account the political support of Kuwait to US decision to go to war Kuwait would have already been a party to the conflict before the missiles were fired.

Which acts constitute participation in war is also of importance for those states including the Federal Republic of Germany which e.g. grant overflight permission to the United States as party to this conflict. It is moreover important for the decision which country is participating in an attack the legality of which is rather disputed.

Responsibility

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