ICC tries to insert wedge between Israel and its allies

February 16, 2021

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The Jerusalem Post

<https://www.jpost.com/international/icc-tries-to-insert-wedge-between-israel-and-its-allies-659171>

In a message posted late Monday night, the [International Criminal Court](https://www.jpost.com/tags/International-Criminal-Court) appeared to try to inject a wedge between Israel and allies that support its position in the ongoing conflict with officials in The Hague, such as the US and Germany.

In what was presented as a question-and-answer fact sheet, the ICC asked: “How does the ICC answer the comments of Prime Minister Benjamin Netanyahu and other states?”

The answer given in the [ICC](https://www.jpost.com/tags/icc) document is: “The Court is an independent and impartial judicial institution crucial for ensuring accountability for the gravest crimes under international law. The Court acts strictly within the legal framework and the jurisdictional competence bestowed upon it by the Rome Statute... The ICC, as a court of law, will continue to do its independent work, in accordance with its mandate and the overarching principle of the rule of law.”

Although the US, Germany and several other countries issued very public and vehement objections to the ICC’s February 5 ruling paving the way for a full criminal probe of war-crimes allegations against Israelis, the statement clearly focused on Netanyahu.

Responding to the ICC decision, Netanyahu had declared it “pure antisemitism,” adding that he viewed the institution as being politicized in the strongest terms.

Naming Netanyahu more directly and addressing criticisms from a powerhouse such as the US, a major ICC donor like Germany and others as nameless “other states,” seemed directed both at minimizing opposition and possibly trying to offer those states a later point to leave Israel behind.

Besides that statement, the ICC document seeks to debunk many of the specific criticisms directed at the court finding that there is a State of Palestine for ICC purposes and that the case can move forward.

Dismissing criticism that the decision against Israel was “political in nature,” the ICC said: “The issues raised by the Prosecutor in its Request clearly raised legal questions on the Court’s jurisdiction which required a legal answer by the Chamber.”

Further, it said the judges “provided a legal answer based on the strict interpretation of the Rome Statute. It emphasized that the issue of the territorial jurisdiction of the Court,” which included the West Bank, Gaza and east Jerusalem, “would have to be further examined when the Prosecutor submits an application for the issuance of a warrant of arrest or summons to appear.”

However, despite this framing of the issue of the territory of “Palestine” as nonpolitical, being that when “Palestine” might be recognized and what its borders would be are at the heart of the Israeli-Palestinian conflict, critics have said the ICC has, intentionally or not, taken a side.

In addition, the document claimed that the ICC “declined to address the arguments regarding the Oslo Accords in the context of the present proceedings and indicated that these issues may be raised at a later stage of the proceedings.”

Once again, critics have said the Oslo Accords explicitly prevent ICC intervention. As such, putting their application on hold has the result of taking a side.

These and other points were made by ICC Judge Peter Kovacs in his opinion dissenting from the February 5 majority decision.

The document also addressed questions as to how Israel could appeal the ruling. Palestinian groups were also expected to be probed, and said the ICC Prosecutor had not yet formally opened a criminal probe, the document said.

Since the decision, the ICC has gone on a public-relations spree in English, Hebrew and Arabic to try to get its message directly to the interested parties.

With British lawyer Karim Khan selected to replace current ICC Chief Prosecutor Fatou Bensouda on June 16, it is also unclear whether such a probe would continue forward during his term or whether he might take a different approach.