ICC war crimes probe: What next for Israel?

March 5, 2021

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YNet News

<https://www.ynetnews.com/article/Hkp9880zO>

A letter from the International Criminal Court in the Hague will soon be making its way to Jerusalem.

In it will be the official announcement from ICC Chief Prosecutor Fatou Bensouda, outlining the intended investigation of alleged war crimes perpetrated by Israel and the Hamas terror group during events in the West Bank and Gaza in 2014 as well as settlement activity and response to Palestinian protests in the Strip.

The United States quickly made its displeasure known over the ICC decision on Wednesday and Jerusalem hopes that the Biden administration will help Israel to oppose it.

Biden's predecessor Donald Trump imposed sanctions on Bensouda and others at the ICC, but those failed to prevent the court from launching the investigation.

Attorney General Avichai Mandelblit said he does not agree that the ICC has the jurisdiction to investigate Israel's actions.

"Israel is committed to the fundamental principles of international law and is able to independently examine allegations of violations of the law. Therefore, there is no cause for the ICC involvement in matters subject to the authority of the State of Israel," Mandelblit said.

Mandelblit also questioned Bensouda's motives for targeting Israel.

"The ICC was established to deal with serious violations of International law. The prosecutor's decision to launch an investigation into Israel – a law abiding democracy - is detrimental to the legitimacy of the court and is a waste of valuable resources when there are real violations of the law taking place in non-democratic countries," he said.

The government will have 30 days from the receipt of the letter to indicate whether it intends to conduct its own investigation into the events in question.

Though there is no imminent danger of the arrest of Israeli citizens, ramifications could be serious, long lasting and far reaching.

High-ranking military personnel and officials of Israel's security agencies are most likely to be targeted by the court. Prime Minister Benjamin Netanyahu, members of his cabinet, West Bank regional council leaders and others involved in promoting settlement efforts could also be named.

Low-ranking IDF veterans will likely avoid any action by the court as it has already stated its probe would concentrate on figures of authority who are responsible for the alleged war crimes and warrants are not expected to be issued in the near future.

Investigations announced by the ICC can take years. One such investigation into possible crimes committed in the Georgian Republic was opened in 2015 and no warrants have been issued thus far.

But because the Israeli government is expected to boycott the court, there is a possibility that warrants will be issued.

If they are issued, and there is no guarantee of any advance notice for this step, each of the 122 ICC member states will then be obliged to act on them. This includes most European countries.

After Israel receives Bensouda's letter and the specific allegations laid out in it, it will be able to assess how to avoid the arrest of those who may be implicated, with hundreds of potential persons of interest already identified.

Officials said that the Justice Ministry has prepared a "defense package" for any civilian or military official that may be named by the ICC.

"There will be no efforts spared to defend Israeli citizens," they said.

Bensouda is scheduled to leave her post in June. It is still unclear what her replacement, British barrister Karim Khan, will decide to do.

Khan may opt to bury the investigation and concentrate the court's efforts on other cases that are pending. But Israeli officials admit that Bensouda may have left him no option but to carry on the investigation.

The government will have to decide in the coming weeks whether or not to cooperate with the probe.

"Investigations of this kind may take a long time and must be based on facts and the law," Bensouda wrote in her statement on Tuesday, adding that preliminary examinations have already lasted almost five years.

She also cited "operational challenges we confront from the pandemic, the limited resources we have available to us."

Officials in Jerusalem believe U.S. President Joe Biden could help. He has not lifted the sanctions imposed by his predecessor that prevent Bensouda and her team from entering the United States. The extent to which the president will assist Israel in this matter, however, is still unclear.

Israeli leaders slammed the ICC decision as anti-Semitic and hypocritical and accused the chief prosecutor of politicizing the court.

Sources in Jerusalem fear that the probe may adversely impact the fragile relations with the Palestinian Authority and even endanger the recent normalization agreements signed with Arab states and opposed by the PA.

Bensouda has denied allegations of anti-Semitism or that she was motivated by anti-Israel sentiments.

"We have no agenda other than to meet our statutory duties under the Rome Statute with professional integrity," she wrote.

"I recall here, by way of an example, the allegations made about the conduct of the Israeli Defense Forces in the case of the Mavi Marmara, where, as Prosecutor, I declined to commence an investigation on the basis that there was not a reasonable basis to proceed following our clinical assessment of the Rome Statute criteria," she said.