ICC breaks without jurisdiction ruling on Israeli war crimes cases

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The International Criminal Court’s pre-trial chamber broke for its summer recess Friday without issuing a jurisdictional ruling on its ability to hear war crimes suits regarding the West Bank, Gaza and east Jerusalem.

The ICC does not resume its judicial work until August 13.

Speculation was high last week that it might issue a jurisdictional ruling prior to going on summer recess. But as of Saturday night no such ruling had been published.

A spokesperson for the ICC would not comment on whether technically a ruling would be published during the recess. He stated that, “the judges can issue their decision when it is ready.”

There is no set date by which the ICC must rule on the matter.

There is some speculation that the US and Israel have delayed any annexation announcement until after an ICC ruling, so that any movement forward with the application of sovereignty over West Bank settlements could be viewed as a direct response to the court.

Both the US and Israeli have publicly argued that the ICC lacks jurisdiction to hear war crimes suites with regard to actions in east Jerusalem, the West Bank and Gaza, but did not submit any legal briefs on the matter to the court.

On Thursday, US Secretary of State Mike Pompeo charged that the ICC’s actions with regard to Israel were politicized.

“And we see multilateral human rights bodies failing us. The United Nations Human Rights Council does the bidding of dictators and averts its gaze from the worst human rights offenses of our times,” Pompeo said during a speech on inalienable rights.

“Indeed, international courts too have largely abandoned unalienable rights. The International Criminal Court is training its sights on Americans and Israelis, not the ayatollahs of the world.”

The US is already in conflict with the ICC over its March decision to allow ICC Chief Prosecutor Fatou Bensouda to investigate the US regarding possible war crimes in Afghanistan.

Last month Trump signed an executive authorizing the blocking of assets and travel restrictions against ICC employees involved in the investigation into its alleged war crimes in Afghanistan.

The Trump administration has argued that the ICC’s intervention in both issues is politically motivated.

In an interview earlier this month, France 24 asked Bensouda if she felt that the US sanctions were also related to the Trump administration’s opposition to the ICC investigation of Israel.

“It is no secret that the administrations in the US and the state of Israel are coordinating their reactions and their policies toward the court,” Bensouda said.

“Both sides know, or ought to know, that we are a professional office, doing our job, dispassionately with no agenda, other than honorably fulfilling our duties,” she said.

Bensouda has been clear in her opinion that the ICC does have the jurisdiction to investigate potential war crimes committed in east Jerusalem, the West Bank and Gaza. She has submitted a brief to that effect to the court.

In an interview with The Jerusalem Press Club on Thursday, attorney Tom Gal, an associate at the Goldfarb Law Firm, said that recent ICC decisions pointed to the ICC’s interest in expanding its range of jurisdiction.

“It seems that the prosecutor is looking for very creative ways to enlarge its jurisdiction... Afghanistan, the PA, and also the recent case in Bangladesh and Myanmar are good examples of that,” Gal said.

On Friday, the ICC marked 22 years since the adoption of the Rome Statute in 1998, which created the ICC. In honor of that date, a number of world leaders, including from Europe, issued supportive statements with regard to the court.

EU foreign policy chief Josep Borrell said, “the ICC is facing persistent external challenges. We stand firm against all attempts to undermine the international system of criminal justice by hindering the work of its core institutions.”

The ICC is “a key actor in the fight against impunity and part of the EU’s wider commitment to the rules-based international order,” he said.

“The EU calls on all states to adhere to their commitments to uphold the rule of law, whether at the ICC or in their national courts, in their actions domestically and through their foreign policy,” Borrell said.