



PERSPECTIVES

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Israel-France Relations in Light of the ICC Decision

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EXECUTIVE SUMMARY: France has not joined other European countries in expressing official support for Jerusalem's claims that the recent decision by the ICC to prosecute Israel for war crimes is political and without a legal basis. The silence of France on this issue is likely motivated by its wish to avoid offending the Palestinian Authority, as well as to put pressure on Israel to make compromises relating to the Israeli-Palestinian conflict.

On March 18, 2021, Israeli president Reuven Rivlin and French president Emmanuel Macron held a diplomatic meeting in Paris as part of Rivlin's European tour. Also present at the meeting was IDF Chief of Staff Lt. Gen. Aviv Kochavi. The parties discussed key geostrategic issues such as the Iranian nuclear project, Iran's interference in the region, the situation in Lebanon, the strengthening of Hezbollah, its aggressive intentions toward Israel, and Israel's determination to thwart those intentions.

During the joint press conference that followed the meeting, Rivlin and Macron warmly discussed their nations' close bilateral relations and willingness to cooperate on matters of common concern. They addressed such issues as the stability of Lebanon, and Iran's nuclear project and subversive activities. Both Rivlin and Macron noted the importance of Holocaust remembrance and the fight against Holocaust denial and antisemitism.

President Rivlin's visit to Paris did not, however, accomplish its main purpose, which was apparently to convince President Macron to support Israel's stance regarding the recent decision by the International Criminal Court (ICC) in the Hague to open a criminal investigation into alleged war crimes by Israel in Gaza and other "Palestinian territories," as well as regarding Jewish localities in the West Bank.

Ahead of his visit, Rivlin published an op-ed in the French newspaper *Le Figaro* in which he presented Israel's arguments against the ICC decision, describing it as both morally and legally bankrupt. The article referred to the broad bilateral relations between Israel and France and their common democratic values. It underlined that international law is part of Israeli law and that Israel has proven that it knows how to investigate its own military personnel if they are suspected of having violated those laws. Rivlin stressed that Israel will continue to act in accordance with the strictest norms of international law.

He went on to criticize the ICC decision as stemming from political considerations. He presented the challenges facing Israel and other democracies in their fight against terror, as terrorist organizations cynically hide behind civilians and conceal their weapons among civilian populations. Rivlin also noted that the ICC investigation will take years and could freeze attempts by Israel to reach agreement with the Palestinians. He made clear that the road to peace will pass solely through direct contact between Israel and the Palestinians. The involvement of the ICC will only harm this process.

Rivlin's article did not garner much interest among the French public, which remains preoccupied with the coronavirus pandemic. However, the French position on the ICC ruling is significant, as it is a leading member state in the EU, a permanent member of the UN Security Council, and very much involved in attempts to mediate the Israeli-Palestinian conflict. It is also worthy of note that one of the three judges on the ICC tribunal is Marc Perrin de Brichambault, a highly respected French judge and a former senior French official. (He does not represent France at the ICC and is supposed to be independent.)

The French reaction to the ICC ruling is highly problematic from an Israeli perspective. During deliberations before the Court, member countries had the opportunity to submit their own legal positions on the case. France has not spoken officially on the question of the ICC's jurisdiction and did not communicate its position to the Court. This was in contrast to other countries, including Germany, the Czech Republic, Australia, Austria, and Hungary, which submitted official comments to the Court in support of Israel's position that the tribunal does not have jurisdiction over Israel. France's opinion could have had a crucial impact on the Court's decision to proceed.

The silence of Paris on this issue was likely motivated by its wish to avoid offending the Palestinian Authority (PA). The PA, which was obviously delighted by the ICC decision, perceives it as a major step forward in its political and legal campaign to delegitimize the Jewish State. It is possible that France refrained from objecting to the ruling in order to pressure Israel to make compromises to the PA that it would not otherwise consider.

France regards the two-state solution as the only possible solution to the Israeli-Palestinian conflict. It perceives this conflict as a central source of instability in the region and often criticizes Israel for its West Bank “settlements,” painting them as a major obstacle to the two-state solution.

France not only does not tend to oppose biased, discriminatory UN resolutions promoted by the Palestinians and anti-Israeli states and organizations, but at times even joins them. Such resolutions single out Israel for unique opprobrium and are designed to isolate and delegitimize it. They present Israel’s justified fight against terror as on a par with the actions of Iranian terrorist proxies like Hamas and Hezbollah.

There are several factors that could motivate France to change tack and join the countries that are supporting Israel’s position.

The attitude of Paris toward the ICC probe might damage its attempt to portray itself as an impartial mediator on the Israeli-Palestinian conflict. France recently renewed its efforts to promote an initiative that would advance an agreement. Its reluctance to publicly support Israel’s position on the ICC ruling could not only undermine its legitimacy as an impartial mediator but encourage the Palestinians to double down on their unilateral legal war against Israel, which, one can argue, will ultimately harm them.

The French reaction to the ICC ruling could also be detrimental to France’s own fight against terror. The overtly political ICC prosecution of Israel regarding its fight against terror could equally come to expose French soldiers who are involved in anti-terrorist operations to ICC prosecution.

The controversy surrounding the recent decision of the ICC risks weakening its ability to fulfill its true role, which is to prosecute individuals for war crimes, crimes against humanity, and genocide when state mechanisms for prosecution are either nonexistent or failed.

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