**ICC Prosecutor to decide Cyprus file before exit**

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International Criminal Court Prosecutor Fatou Bensouda said she would make a decision regarding the Turkish occupation of Northern Cyprus before her term ends on June 16.

She made the comments on Wednesday while speaking to a virtual conference hosted by the Institute of International and European Affairs.

Amid the ICC debate on whether Israeli settlements should be deemed a war crime is the question of the Turkish occupation of Northern Cyprus, which has been almost completely ignored.

Until now, the timeline regarding an ICC decision about Northern Cyprus has been muddled. The issue is a rare case that deals with alleged forced population transfer as a war crime (as opposed to “classic” war crimes such as genocide), and the ICC’s decision could have far-reaching implications in how it could treat Israeli settlements.

The Palestinians asked for ICC intervention in January 2015, Bensouda declared Israeli settlements war crimes in December 2019, and the ICC Pre-Trial Chamber gave a green light for a full criminal war crimes probe on February 5.

In contrast, the first complaint by a Cypriot official, represented by Shurat Hadin, against Turkey’s settlements in Northern Cyprus was filed in July 2014 – half a year earlier than the claims against Israel.

It is unclear why Bensouda moved forward sooner on the Israeli-Palestinian situation than on Northern Cyprus, but until her statement on Wednesday, it was unclear if she would address the situation at all.

In fact, there had been indications that Bensouda would decide about Northern Cyprus by the end of 2020, but this never materialized.

It is also unclear whether she had hoped for a decision first on the Israeli-Palestinian situation to use as legal backing for her Northern Cyprus decision.

“For a period of seven years, Bensouda has brazenly ignored our communication involving Turkey’s occupation of Northern Cyprus despite all our repeated demands and warnings,” said Shurat Hadin director Nitsana Darshan-Leitner. “Finally, when we complained to the IOC [International Criminal Court Independent Oversight Commission], it forced the prosecutor’s hand to suddenly pursue the situation in Northern Cyprus.

“It was our intention to tie the court’s hands by creating a prerequisite dynamic involving other territorial disputes around the world, like the Turkish occupation. We wanted to ensure that the ICC would not be able to deal with the Palestinian complaints against Israel without first determining how Turkey is occupying Northern Cyprus. Let’s see the ICC really go after Erdogan.”

Shurat Hadin sent a letter on January 18 to the ICC’s IOC complaining about a lack of movement on the Northern Cyprus situation, as well as on other unrelated issues concerning the Palestinian Authority.

Bensouda does have some reasons she could give why the Cyprus case might move slower.

First, the government of Cyprus itself has never officially referred the case. Rather, Shurat Hadin filed a complaint on behalf of a specific member of the EU parliament from Cyprus, Costas Mavrides.

From a technical perspective, this means that if Bensouda does move forward, it would be based on her rarely used power to self-initiate a case. An ICC prosecutor does not do this lightly, and when they do, they need permission from the ICC judges.

But there are counter-arguments.

Unlike the Israeli case, where the main country being probed (Israel) is not even a member of the Rome Statute and is against referring the case, Cyprus is a proud participating member of the Rome Statute.

If Cyprus does not refer the case to the ICC, it is likely out of fear of Turkey.

The entire world views Turkey as illegally occupying Northern Cyprus, following its invasion in 1974 in response to a short-lived coup by Greek Cypriots.

The Cypriot-Shurat Hadin complaint alleged that “the Turkish occupation is one of the most brazen settlement enterprises in modern times.”

In addition, out of a total of around 50,000 Turkish citizens living in the area in 1996, the complaint said that Turkey’s aggressive policies, including forced “displacement” of Cypriots from their homes, had gone as far as “murder or disappearances of thousands of Greek Cypriots.”

The bottom line from the complaint is that official and coordinated Turkish government policies have settled more than 100,000 Turks in the area, who now constitute around half the population.

The communication describes the Turkish government’s systematic policy to bolster its control over Northern Cyprus, encouraging ethnic Turkish immigration while acting aggressively to transfer native Greek Cypriots from the territory.

Some experts have told The Jerusalem Post that Turkey’s invasion, occupation and active altering of the landscape in Northern Cyprus is the true paradigm of population transfer being a war crime.

Experts say that Turkey has expelled large groups of Greek Cypriots without any due process or pretension of concerns for their rights, has taken the possessions of those expelled communities, and has not followed any of the laws of belligerent occupation for protecting their rights.

No neutral legal experts really debate most of these points, and there is no UN resolution that could be interpreted as giving Turkey any rights in Cyprus.

In contrast, UN Resolution 242 says that Israel and the Palestinians must resolve their border dispute through negotiations to the extent that a majority of countries view Israeli settlements as illegal (although the US during the Trump administration viewed them as legal).

This is not because they think all of the West Bank must be handed to the Palestinians, as much as they disapprove of the timing, but rather, they do not want Israel changing facts on the ground until the dispute is settled. But if there were to be a peace deal, they would not oppose certain Israeli settlements to remain, as proposed under the Camp David II Clinton parameters.