**In fact sheet, ICC rejects Israeli claim war crimes probe politically motivated**

Times of Israel

February 16, 2021

<https://www.timesofisrael.com/in-fact-sheet-icc-rejects-israeli-claim-war-crimes-probe-politically-motivated/>

The International Criminal Court released a fact sheet Monday on the recent decision that it has jurisdiction to investigate Israel and the Palestinians for alleged war crimes, rejecting the claim by Prime Minister Benjamin Netanyahu that the decision proved that the court was politicly motivated.

Earlier this month, a pre-trial chamber of the ICC determined that The Hague has jurisdiction to open a criminal investigation into Israel and the Palestinians for war crimes alleged to have taken place in the West Bank, Gaza Strip and East Jerusalem. It now falls to the ICC’s chief prosecutor, Fatouh Bensouda, to decide whether to launch an investigation, and she indicated in 2019 that she intends to do so.

The fact sheet notes that it is not an official document and is meant for public information only.

In one section, answering the direct question of whether the decision was political, the document states: “No. 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.”

Later the document directly addresses “the comments of Prime Minister Benjamin Netanyahu and other states,” pushing back against their statements by saying the court is an “independent and impartial judicial institution crucial for ensuring accountability for the gravest crimes under international law.”

A number of nations have backed Israel in its assertion that that ICC doesn’t have the jurisdiction to open an investigation, including the United States, Germany and Hungary.

The document added that the court carries out its work in accordance with its mandate and “acts strictly within the legal framework and the jurisdictional competence bestowed upon it by the Rome Statute.”

The fact sheet pushes back against comments made by Netanyahu and a statement his office put out in the name of Israel’s security cabinet that said it “completely rejects the scandalous decision of the court that could enable the investigation of Israel for false war crimes.”

“The cabinet determines that the court has no authority to make such a decision. Israel is not a member of the international court and the Palestinian Authority does not have the status of a state,” read the statement.

Israel is not a member of the ICC and neither is the US. The Palestinians joined the court in 2015.

“The international court was established to prevent horrors such as those that were perpetrated by the Nazis against the Jewish people. Instead, it is persecuting the state of the Jewish people,” the statement said, repeating the words of Netanyahu a day prior.

“Even as it allows the investigation of Israel,” the statement said, “the only democracy in the Middle East that is committed to the rule of law, the court shuts its eyes to the awful war crimes being perpetrated time and again by dark dictatorships such as Iran and Syria.”

The statement continued by saying “the claim that Jews living in their homeland and their capital of Jerusalem constitutes a war crime is scandalous” — a reference to the court potentially probing Israeli settlement policy in the West Bank and conduct in the disputed East Jerusalem.

The ICC is meant to serve as a court of last resort when countries’ own judicial systems are unable or unwilling to investigate and prosecute war crimes. Israel’s military has mechanisms to investigate alleged wrongdoing by its troops, and despite criticism that the system is insufficient, experts say it has a good chance of fending off an ICC investigation into its wartime practices.

The ICC does not try countries, but rather individuals.

When it comes to settlements, however, some experts say Israel could have a difficult time contesting international law forbidding the transfer of a civilian population into occupied territory.

If Israel and/or Hamas are ultimately convicted of war crimes, and if senior officials are named in such a verdict, they could be subject to international arrest warrants upon travel abroad.