West Bank Annexation Indefensible at International Criminal Court, Top Legal Adviser Warns Netanyahu

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Israeli Prime Minister Benjamin Netanyahu was warned by the attorney general's office that annexing the Jordan Valley could spur an International Criminal Court investigation of senior army officers, civil service officials and heads of regional councils of West Bank settlements.

The warning was issued after [International Criminal Court](http://www.haaretz.com/misc/tags/TAG-icc-1.5599302) Prosecutor Fatou Bensouda [condemned Netanyahu’s declaration](http://www.haaretz.com/israel-news/.premium-icc-prosecutor-concerned-about-israeli-proposals-to-annex-jordan-valley-1.8226040) that he will work toward annexation of the territory, which is in the West Bank, to Israel.

During recent consultations, officials in Attorney General Avichai Mendelblit’s office made it clear that a sworn-in government can legally annex the territory, but must consider the possible consequences on the inquiry being conducted at The Hague on Israel’s activity in the West Bank.

Until now, Deputy Attorney General for International Affairs Roy Schondorf, the National Security Council and other security officials have successfully fended off attempts to prosecute Israel in the international legal arena, but the Justice Ministry is now concerned that annexation would make it much more difficult to do so.

Furthermore, the attorneys warned, “The European ruling on [marking products from the settlements](https://www.haaretz.com/middle-east-news/.premium-don-t-label-israeli-settlement-products-ban-them-1.8127230) will be just the beginning.” They said annexation would expose all Israeli officials who work in the West Bank to prosecution, including local and regional council heads.

Netanyahu recently reiterated that he [plans to annex the Jordan Valley](https://www.haaretz.com/israel-news/.premium-election-netanyahu-israel-annexation-west-bank-jordan-valley-1.7829604), saying he had discussed the issue with U.S. President Donald Trump and Secretary of State Mike Pompeo, who have declared that the [settlements are not illegal under international law](https://www.haaretz.com/us-news/israeli-settlements-not-inconsistent-with-international-law-pompeo-to-announce-1.8139055). At the Makor Rishon Conference on Sunday, Netanyahu said, “The time has come to apply Israeli sovereignty to the Jordan Valley and to normalize all the communities in Judea and Samaria, those that are in the [settlement] blocs and those outside them. They will be part of the State of Israel.”

On Monday, Netanyahu [slammed the heads of the Kahol Lavan party](https://www.haaretz.com/israel-news/elections/.premium-netanyahu-rival-drops-bombshell-ahead-of-possible-election-1.8251073), saying they “are refusing to set up a broad national unity government that will annex broad areas of Judea and Samaria.” Kahol Lavan chairman [Benny Gantz](https://www.haaretz.com/misc/tags/TAG-Benny-Gantz-1.6806259) has stated in the past that the Jordan Valley will part of Israel under any future agreement with the Palestinians.

On Thursday, Bensouda’s office issued its 2019 annual report which surveys the inquiries she is conducting. The office, the report said, “has also followed with concern proposals advanced during the recent electoral process, to be tabled to the Knesset, for Israel to annex the Jordan Valley in the West Bank.” Later that day Netanyahu told reporters in Lisbon that “[It’s our full right to do so if we decide to](https://www.haaretz.com/israel-news/.premium-netanyahu-says-our-full-right-to-annex-jordan-valley-despite-icc-prosecutor-report-1.8227174).”

Similar past warnings from the International Criminal Court, however, led Netanyahu to freeze the [evacuation of the Palestinian village of Khan al-Ahmar](https://www.haaretz.com/israel-news/.premium-israel-postpones-eviction-west-bank-bedouin-village-of-khan-al-ahmar-1.7377116).

**EU to debate Middle East policy**

Meanwhile, [European Union](https://www.haaretz.com/misc/tags/TAG-european-union-1.5598888) foreign ministers are set to discuss next month whether the 28-nation bloc should modify its Middle East policy amid growing concern that Israeli settlement activity and U.S. diplomatic moves are undermining hopes for a two-state solution.

“If we want a two-state solution we need to help and encourage both parties to enter into a serious and credible negotiation, and this is not the case” at the moment, new EU foreign policy chief Josep Borrell told reporters Monday after chairing talks between the ministers.

Ireland and Luxembourg are among a small group of countries that want the issue put on the agenda. Borrell said the ministers “will deeply discuss the situation in the Middle East” when they meet again in Brussels on January 20.

The EU’s long-held stance is that any peace agreement between Israel and the Palestinians should be based on the notion of two states within pre-1967 borders with Jerusalem as their shared capital. The bloc also opposes settlement expansion and insists it is illegal under international law.

In a letter to Borrell, Luxembourg Foreign Minister Jean Asselborn said that hopes for a [two-state solution](https://www.haaretz.com/israel-news/israeli-palestinian-conflict-solutions/.premium-explained-two-states-one-and-other-solutions-to-the-israeli-palestinian-conflict-1.7044468) are “being dismantled piece by piece, day after day,” and that it is time to consider recognizing Palestine as a state.

He said that any EU decision to recognize Palestine “would neither be a favor, nor a blank check, but a simple recognition of the right of the Palestinian people to their own State. In no way would it be directed against Israel.”