**Exclusive: Israel Decides to Open Dialogue With ICC Over Gaza Preliminary Examination**

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Israel has decided to reverse its policy and open talks with the prosecutor at the International Criminal Court in The Hague over the [preliminary examination](http://www.haaretz.com/news/diplomacy-defense/1.637518) the [ICC](http://www.haaretz.com/misc/tags/ICC-1.635146?page=0&listId=7.1074795#listAnchor7.1074795) is conducting into [Operation Protective Edge](http://www.haaretz.com/st/c/prod/eng/2015/year-to-gaza-war/) in the Gaza Strip last summer, as well as the situation in the West Bank and East Jerusalem.

Israel's reason for opening contacts with the ICC's Office of the Prosecutor is only to make its position clear to the court - that the ICC does not have any authority to hear Palestinian complaints on the matter -  a senior Israeli official told Haaretz.

The decision to open a dialogue with the prosecutor, [Fatou Bensouda from Gambia](http://www.haaretz.com/news/diplomacy-defense/.premium-1.638684), was made in the past few days by Prime Minister Benjamin Netanyahu, after discussions that included representatives of the foreign and justice ministries, the Israel Defense Forces and National Security Council.

A team of experts from the various ministries will be responsible for the contacts with the ICC.  Members of the team will visit The Hague in the coming weeks to meet with representatives of the prosecutor's office there. Israel intends to keep a low profile on the matter in the press.

"This does not mean we are cooperating with the preliminary examination the ICC is conducting at the Palestinian request," said the Israeli official, who asked to remain anonymous due to the diplomatic sensitivity of the issue.

"The Israeli position, like the position of other countries around the world, is that the International Criminal Court in The Hague has no authority to hear the Palestinian request since Palestine is not a country and because the Israeli judicial system is independent and can handle complaints on the matter of alleged war crimes," he added.

The Israeli government feels the ICC prosecutor's office made a mistake in deciding to open a preliminary inquiry, said the senior official. "Israel has no obligation to cooperate with the preliminary examination the prosecutor's office is conducting.

"Nonetheless, as has been done in the past with other international organizations that dealt with matters related to the Israeli-Palestinian conflict, such as the UN secretary-general's board of inquiry to examine the attacks on UN facilities in Gaza, we examined the matter and decided that in this case it would be proper to present the prosecutor and her staff with the Israeli position concerning the court's lack of authority in a direct fashion, so that not only Palestinian claims are heard," said the official.

One of the issues raised during the discussions was the possibility that representatives of the prosecutor's office would visit Israel and the Palestinian territories. Such a visit is a normal procedure in preliminary examinations conducted by the prosecutor's office of the ICC.

The Palestinians are extremely interested in having such a visit as soon as possible, but the prosecutor and her staff are still examining the matter, and have yet to set a date for such a visit to the region.

Israel will consider a request for such a visit in its own right, said the official.

"Israel expects the prosecutor's office to act cautiously, professionally and independently without any bias, and will not lend a hand to the Palestinian attempt to turn the court into a political tool or a stage for advertising tricks," emphasized the official.

Israel is not a member of the ICC - neither is the United States - but Israel's military and civilian leaders could now face charges if they are believed to have committed crimes on Palestinian territory. The ICC is an independent international organization based at The Hague in the Netherlands, and is not part of the UN system.

The series of official actions presented by the Palestinians to the ICC began on December 31, 2014, when Palestinian Authority President Mahmoud Abbas signed the Rome Statute (which regulates the work of the ICC) and issued a declaration that the Palestinians recognize the court’s authority to examine the possibility that crimes were committed on Palestinian soil starting on June 13, 2014 - the date when searches for the three Israeli teenagers kidnapped and murdered in Gush Etzion the night before were launched.

In a surprise move, on January 16, 2015, Bensouda announced she was launching a preliminary examination into the situation in Palestine, even though Palestine’s affiliation with the ICC had yet to officially take effect.

The purpose of the preliminary examination is to determine if there is a reasonable basis to the claim that crimes have been committed that are within the court’s authority to investigate. If the prosecution does decide to launch an investigation, it is possible they will not just investigate allegations of Israeli war crimes, but also actions committed by the Palestinians.

On February 7, Abbas announced the establishment of the Supreme National Committee for Coordination with the ICC. On April 1, Palestine’s [membership in the ICC](http://www.haaretz.com/news/diplomacy-defense/1.650013) became official, making it the 123rd member.

Two weeks ago, Palestinian Authority Foreign Minister Riyad al-Malki [presented the prosecutor's office with documents](http://www.haaretz.com/news/diplomacy-defense/1.663045) to back up the Palestinian claims of alleged war crimes and violations of international law committed by Israel.