ICC prosecutor again rejects probe of Mavi Marmara incident

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By AFP

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The International Criminal Court's chief prosecutor Monday again said she will not press charges over a deadly 2010 Israeli raid on a flotilla bringing aid to Gaza, urging the probe to be shut.

Fatou Bensouda's decision comes three months after the judges of the tribunal based in The Hague ordered her for a second time to reconsider probing the case.

"There remains no reasonable basis to proceed with an investigation," Bensouda said in papers filed before the world war crimes court.

This was because "there is no reasonable basis to conclude that any potential case arising from the situation would be of sufficient gravity to be admissible before the court," Bensouda said in a legal position she has taken before.

Nine Turkish citizens died in May 2010 when Israeli marines stormed the Mavi Marmara, among eight ships trying to break a naval blockade of the Gaza Strip. One more died in hospital in 2014.

The case was first filed in 2013 by the Comoros, the Indian Ocean nation where the ship was registered.

Bensouda said in 2014 that she would not prosecute Israel over the incident, saying it was "not of sufficient gravity" -- which means the case could be determined as inadmissible before the ICC.

Bensouda again affirmed the decision in 2017 after judges said she must take another look at the case. Israel itself is not a party to the court but its nationals could still be prosecuted.

In a fresh setback for Bensouda after a number of high-profile failures, appeals judges in September ruled that she must once more examine whether to bring charges before court in The Hague.

But despite criticizing Bensouda in unusually strong terms, the judges said  
it was ultimately up to the chief prosecutor whether to prosecute.

In a 44-page reply to the judges' order, Bensouda said she "maintains her view that the preliminary examination of this situation must be closed."

This conclusion, she said, was reached "on the basis of a careful analysis, conducted in good faith, within the legal framework" of the situation.

The ICC separately in 2015 launched a preliminary probe into allegations of war crimes and crimes against humanity by Israel in the wake of the Gaza war.

But Bensouda, who is stepping down as prosecutor in 2021, has yet to move to the next stage and open a full-blown investigation which could possibly lead to charges being brought.