Six countries to ICC: We are against Israel war-crime lawsuits

February 15, 2020

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The Jerusalem Post

<https://www.jpost.com/Israel-News/Six-countries-tell-ICC-they-oppose-war-crimes-suits-against-Israel-617698>

At least six countries have filed amicus briefs to the International Criminal Court asking permission to present legal arguments against the tribunal’s jurisdiction to adjudicate war crime suits against Israel.

They includes Germany, Austria, the Czech Republic, Hungary and Brazil. Channel 12 reported that Uganda was also on the list.

Australia also filed an amicus brief but did not state its position. The Organization of Islamic Cooperation filed a brief on behalf of the Palestinians.

The showing of European support comes as the European Union’s foreign ministers are scheduled to meet on Monday to discuss US President Donald Trump’s peace plan and the possibility of a common position against any Israeli annexation of West Bank settlements. Such action would require consensus and the EU has been divided with respect to the Israeli-Palestinian conflict.

Some of those divisions were evident at The Hague in the Netherlands, where four EU countries spoke on Israel’s behalf. Knesset speaker Yuli Edelstein, who held meetings with German leaders last week in which he raised the issue, thanked its government for supporting Israel at the ICC and in other international arenas.

“The most important power in the European Union [Germany] is standing beside Israel in the face of incitement by the Palestinians and the hypocrisy of the UN. Israel will fight for justice and will not allow [Palestinian Authority President Mahmoud] Abbas to continue his worldwide campaign of deception,” Edelstein said.

The ICC’s pre-trial chamber is preparing to accept arguments on the court’s jurisdiction to adjudicate war crime suits against Israelis for their actions in east Jerusalem, the West Bank and Gaza as of June 13, 2014. Among those who could be targeted by any suits would be Prime Minister Benjamin Netanyahu and his chief political rival Benny Gantz, who is a former IDF Chief of Staff.

The ICC’s Chief Prosecutor Fauda Bensouda has already stated that she believes both Israelis and Palestinians have committed war crimes.

But she asked the pre-trial chamber to issue a jurisdictional ruling on the case, which includes an examination of the question of whether Palestine has a legal status as a state.

Friday was the deadline for countries to ask the ICC for permission to weigh in on the matter. Once permission is granted, those countries would have until March 16 to send their arguments to the court. Friday was also the deadline for many organizations, and legal and diplomatic experts to similarly file amicus briefs on behalf of Israel or the PA.

Germany wrote that its consistent position has been “that a Palestinian state, and the determination of territorial boundaries, can be achieved only through direct negotiations between Israelis and Palestinians.”

It was one of a number of countries that addressed what they argued was a fine line distinction between Palestine’s legal status as a state and a number of steps at the UN that has been taken to upgrade its status. This included the 2012 UN General Assembly Resolution that granted the Palestinians the status of a non-member state.

In its letter, Germany, which abstained on the 2012 text, told the court that the resolution was intended solely as a procedural upgrade of the Palestinian representation.

Austria said it had voted for the Palestinians to become a member state at UNESCO in 2011, and for the UN General Assembly upgrade to its status in 2012. It had not objected to the PA accession to the Rome Statute in 2015.

But Austria clarified that this did not mean it recognized Palestine as a sovereign state.

It added that even if the court determined that it had jurisdiction, “the concrete scope of territorial jurisdiction would be doubtful.”

Hungary, which abstained from the 2012 UNGA vote, told the ICC it “doubts that Palestine fulfills all the constitutive elements of statehood and hence the territorial jurisdiction of the court does not necessarily extend to the occupied Palestinian territory.”

The Czech Republic, which rejected the 2012 UNGA resolution, stated: “It is the long standing position of the Czech Republic that Palestine has not fulfilled yet all criteria of statehood under the international law.”

Brazil said it would be an undue expansion of the reach of criminal law.

Among the individual experts that filed amicus briefs to the court was former United States ambassador Dennis Ross, who was the Middle East envoy under former US president Bill Clinton.

Based on his first-hand knowledge of the Oslo Accords brokered by Clinton, Ross said, he believed the prosecutor erred when she said that the court’s jurisdiction was consistent with the Oslo Accords.

“To the applicant’s best knowledge and belief some of these assertions and arguments fail to accurately capture the understandings between the parties and the dynamics and context of the negotiations as they stood at the time they happened,” Ross wrote.

Foreign Minister Israel Katz welcomed the filing of the amicus briefs by important countries, renowned experts and civil society organizations.

Their stance against ICC jurisdiction is a “responsible position that aligns with international law and prevents the court’s politicization,” he said.