ICC decision on Israel delayed by coronavirus shutdown

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The International Criminal Court’s decision about whether to authorize a full criminal probe of Israelis for war crimes will likely be delayed by at least a month after the building in The Hague, Netherlands, closed on Tuesday because of the coronavirus pandemic.

Due to the shutdown, which will run at least until March 30, and the coronavirus crisis in general, ICC Prosecutor Fatou Bensouda has filed a request asking for an extension until April 30 for her legal brief which was due on March 30.

On March 16, and in the days leading up to then, a large number of countries, NGOs and renowned jurists filed legal briefs taking either Israel’s side or the Palestinians’ side in the alleged war crimes controversy.

The ICC had been expected to hand down a fateful decision about Israel, the Palestinians and alleged war crimes after Bensouda filed her brief on March 30.

The core issue is whether the ICC Pretrial Chamber will view “Palestine” as a state, and what territory it would say it has jurisdiction over. If there is no “State of Palestine,” the ICC would in theory need to reject the case.

On December 20, Bensouda ruled that Palestine is a state and that there is sufficient evidence that both Israel and Hamas committed war crimes, warranting her opening a full criminal investigation.

However, she also asked the ICC’s Pretrial Chamber to endorse her view.

The Israeli government itself did not respond to Bensouda’s December 20 decision, resting instead on two legal briefs it filed that day, hours before Bensouda’s announcement.

Israel does not want to appear to have accepted ICC jurisdiction, since it is not a signatory to the Rome Statute.

In contrast, the Palestinian Authority published a statement on Monday calling on the ICC to disregard any countries objecting to the idea of Palestinian statehood.

It is unclear whether Bensouda may seek a further extension, if the ICC building remains closed after March 30.