



Palestinian Authority reactions to sanctions imposed by US on senior ICC officials

September 10, 2020

Overview

► The International Criminal Court (ICC) in The Hague is conducting an investigation into war crimes allegedly perpetrated by the American forces in Afghanistan. Due to this investigation, US Secretary of State Mike Pompeo announced that ICC General Prosecutor Fatou Bensouda and Phakiso Mochochoko, the head of the ICC's Jurisdiction, Complementarity and Cooperation Division, would be added to the US Department of the Treasury's Specially Designated Nationals and Blocked Persons List (SDN). Blacklisting them allows freezing their assets in the United States and banning their entry into the US. Prior to this announcement, there was a series of sanctions against ICC officials, including the revoking of General Prosecutor Fatou Bensouda's entry visa to the US.



Two ICC senior officials added to the SDN: ICC General Prosecutor Fatou Bensouda (right) and Head of the ICC's Jurisdiction, Complementarity and Cooperation Division Phakiso Mochochoko

The US decision was met with **strong condemnations on the part of PA and PLO senior officials**. According to those senior officials, the American measure compromises international law, and the US administration is led by "war criminals" and "enemies of international law and the peace." Apart from that, they regard the US measure as **undermining the Palestinian lawsuits filed with the ICC against Israel**. The ICC is currently expected to give its answer about its authority to mount an investigation against

Israel on suspicion of perpetrating “war crimes¹”. Thus it seems that the Palestinian Authority is concerned that **the US challenge on the ICC's jurisdiction will undermine its position and provide Israel with legitimacy to object to the ICC's activity against it.**

Executive order issued in the US

- ▶ Due to an investigation conducted by the International Criminal Court (ICC) in The Hague on suspicion of war crimes perpetrated by the US military in Afghanistan, and based on an executive order issued by US President Donald Trump in June 2020, **US Secretary of State Mike Pompeo announced that the US would blacklist ICC senior figures.**
- ▶ According to Pompeo, the US will impose sanctions on **the ICC General Prosecutor Fatou Bensouda and Head of the ICC's Jurisdiction, Complementarity and Cooperation Division Phakiso Mochochoko.** Adding their names to the SDN allows freezing their assets (if any) in the United States and banning their entry into the US. In addition, the State Department also restricted the issuance of visas for individuals who were involved in the ICC's efforts to investigate U.S. personnel. Pompeo also said that individuals and entities that continue to materially support Bensouda and Mochochoko would risk exposure to sanctions as well (Reuters, September 2, 2020).²



**US Department of the Treasury's statement
(Department of the Treasury's website, September 2, 2020)**

¹ See the ITIC's Information Bulletin from July 27, 2020, “The Palestinian Authority is disappointed because the ICC recessed for the summer without deciding about its authority to investigate Israel. The PA is working to accelerate the publication of the decision, anticipating that it will favor the Palestinians.”

² The US has never been a party to the ICC, which Pompeo called a “thoroughly broken and corrupt institution” and said “We will not tolerate its illegitimate attempts to subject Americans to its jurisdiction” (npr.org, September 2, 2020).

► **The US announcement on adding the names of the above two senior ICC figures to the SDN List is part of a series of steps taken by the US against the ICC, those heading it and those operating on its behalf. Thus, the entry visa to the US of ICC General Prosecutor Fatou Bensouda was revoked by the US Authorities back in April 2019**, after Bensouda announced the launching of an investigation regarding incidents in Afghanistan where US soldiers allegedly perpetrated war crimes. The US warned then that it would revoke visas of any ICC employee involved in that investigation and if the investigation was to continue, they would escalate their measures (Ynet, April 6, 2019).

► **The ICC dismissed the measures as “another attempt to interfere with the court’s judicial and prosecutorial independence”** and said in a statement that **it stood by the work of its staff** (Reuters, September 2, 2020). Human Rights Watch says **the sanctions will have a serious impact on Bensouda and Mochochoko**, "who not only lose access to their assets in the US but are also cut off from commercial and financial dealings with 'US persons,' including banks and other companies. US sanctions also have a chilling effect on non-US banks and other companies outside of US jurisdiction who fear losing access themselves to the US banking system if they do not help the US to effectively export the sanctions measures" (npr.org, September 2, 2020).

Reactions by the Palestinian Authority and PLO

► Senior figures in the PA and PLO **lashed out against the United States and strongly condemned its announcement**. According to them, the US measure is detrimental to law, justice and international conventions, and constitutes an attempt to influence the work of the ICC. Apart from that, they expressed concern that **the measure taken by the US was also intended to compromise the Palestinian lawsuits filed with the ICC against Israel**. The ICC is supposed to decide, based on a report submitted by the general prosecutor on April 30, 2020, whether it has the authority to launch an investigation against Israel on suspicion of perpetrating “war crimes” and the boundaries of the territory on which the investigation should be conducted (ICC website, April 30, 2020).

► **Following are prominent Palestinian statements:**

◆ **PA Foreign Minister Riyad al-Maliki** said that this was an attempt to disrupt international justice and yet another attack against the institutions of international law. The American announcement was intended to exert pressure on and blackmail

members of the court, the prosecutor and her team, **in order to influence their work.** The PA foreign minister condemned **the policy of “bullying and terrorizing” against the ICC conducted by “war criminals” in the American administration, “enemies of international law and the peace.”** The aim of this policy is to compromise the independence, transparency and credibility of the ICC and particularly the prosecutor and her office. The PA foreign minister pointed out that the meaning of the US administration’s actions is **defending war criminals, including Israeli war criminals.** According to him, Palestine is committed to support the ICC and defend it as well as the values and principles stipulated in the Rome Statute and it will not allow the implementation of the US administration's plan which is based on chaos, creating facts on the ground, and the law of the jungle (website of the PA Ministry of Foreign Affairs, September 2, 2020).

◆ According to **PLO Executive Committee Member Hanan Ashrawi**, punishing, harassing or persecuting ICC senior figures while they carry out their duties investigating war crimes and other serious violations of the Rome Statute is illegal and unacceptable. She said the international senior figures should enjoy the protection required to carry out their job of bringing war criminals to justice. She called on all member countries of the Rome Statute to protect the independence of the ICC and allow it to carry out its duties without interference or external coercion, and oppose the Trump administration’s smear and threat campaign (Wafa, September 2, 2020).

◆ **PLO Executive Committee Member Taysir Khaled** called on the ICC prosecutor and other senior court officials to refuse to succumb to the “blackmail and bullying” by the US that seeks to protect those who violate human rights **and perpetrate war crimes and crimes against humanity in Afghanistan and Palestine.** He called on the ICC **to expressly decide on the legal proceedings** that allow the launching of an investigation into the activity of the Israeli forces in the Palestinian occupied territories since June 1967, including Jerusalem, and especially “murders, settlement crimes, demolition of houses, crimes of transfer, ethnic cleansing, and additional crimes” (Dunya al-Watan, September 3, 2020).

◆ **PLO Executive Committee Member Saleh Rafat** noted that the American measure was intended to cover “the American and Israeli crimes” while blatantly violating all

international laws and standards that guarantee the protection of justice and its implementation (Dunya Al-Watan, September 3, 2020).