Top Israeli Official Blasts Spanish Court's Probe

January 30, 2009

CNN

<http://www.cnn.com/2009/WORLD/europe/01/30/spain.israel.gaza.lawsuit/>

A top Israeli official named as a suspect in a war crimes investigation by Spain's high court has lambasted the move, claiming Spanish law is siding with terrorist organizations.

Israel's Infrastructure Minister Benjamin Ben-Eliezer is one of seven Israelis under investigation by Spain's National Court over a 2002 bombing in Gaza that killed 15 people and injured more than 150 others. He was then the defense minister.

"This is a ridiculous decision and, even more than ridiculous, it is outrageous," Ben-Eliezer said. "Terror organizations are using the courts in the free world, the methods of democratic countries, to file suit against a country that is operating against terror."

The case, brought by the Palestinian relatives of some of the deceased, names Ben-Eliezer and six other Israeli top military commanders and security officials at the time.

The National Court said it has jurisdiction to investigate the case, and that initial evidence suggests the bombing "should be considered a crime against humanity," according to a court order.

The Israeli Ministry of Foreign Affairs issued a statement condemning the action.

"The Spanish magistrate's decision is unacceptable, and Israel will use all the means at its disposal to cancel it," the statement said. " One way or another, Israel will guarantee, and provide full legal counsel, to all members of the armed forces who worked in the name of the state of Israel."

The court has previously taken on other high-profile human-rights cases outside of Spain, such as charges against former Chilean dictator Augusto Pinochet and more recently against the former military leaders of El Salvador.

The court says that if a potential human-rights crime is not being investigated by the country in question, Spain can proceed, under international law.

The Israeli case involves the July 22, 2002, bombing in Gaza of the home of a suspected Hamas commander, Salah Shehadeh. The blast killed him and members of a Palestinian family named Mattar. They lived next door. Some of their relatives brought the suit to the court in August.

The court said it had asked Israel for information as it considered whether to accept the case, but "as of today, Israeli authorities have not complied with the request for international judicial cooperation." So the court took on the case.

Ben-Eliezer said he does not regret his decision to bomb Gaza.

"Salah Shehadeh was a Hamas activist, an arch-murderer whose hands were stained with the blood of about 100 Israelis," he said.

Shehadeh was the leader in Gaza of the Izzedine al Qassam, the military wing of the Islamic group Hamas, which the U.S. State Department has called a terrorist organization.

Israeli sources said Shehadeh was responsible for hundreds of attacks by the military wing of Hamas since the beginning of the current intifada in September 2000.

The Washington-based Crimes of War project studied the case in detail. According to its report, the Israeli bombing of Gaza in 2002 was a "disproportionate punishment" that resulted in the loss of civilian lives.

Israel's Defense Minister Ehud Barak issued a statement, saying: "Those that call the assassination of a terrorist a 'crime against humanity' live in an upside-down world. All the senior officials in the security establishment, past and present, acted appropriately on behalf of the state of Israel from their commitment to defend the security of its citizens."