Spanish FM: We'll Act to Prevent War Crimes Probes Against Israel

January 1, 2009

By The Associated Press and Barak Ravid

Haaretz

<http://www.haaretz.com/beta/spanish-fm-we-ll-act-to-prevent-war-crimes-probes-against-israel-1.267048>

Spanish Foreign Minister Miguel Moratinos informed Foreign Minister Tzipi Livni on Friday of Spain's plan to amend legislation that granted a Spanish judge the authority to launch a much-publicized war crimes investigation against senior Israeli officials.

Judge Fernando Andreu launched an investigation Thursday into seven current or former Israeli officials over a 2002 bombing in Gaza that killed a top Hamas militant, Salah Shehadeh, and 14 other people, including nine children.

The judge acted under a doctrine that allows prosecution in Spain, and other European countries, to reach far beyond national borders in cases of torture or war crimes. The universal jurisdiction ruling sparked outrage in Israel and elsewhere.

Spanish state television TVE quoted government sources as saying the possibility of a legal "adjustment or modification" would not be retroactive and would not affect the case before the courts.

"I just heard from the Spanish Foreign Minister Moratinos, that Spain has decided to change its legislation in connection with universal jurisdiction and this can prevent the abuse of the Spanish legal system," Livni told the Associated Press. "I think this is very important news and I hope that other states in Europe will do the same."

"Legal systems around the world have been exploited by cynics whose sole purpose is to hurt Israel," Livni went on to say. "It's good that Spain decided to put an end to this phenomenon."

One of the Israelis the court aimed to investigate on Friday called the charges propaganda. Former military chief of staff Moshe Yaalon told Army Radio that he was not worried about standing trial. Yaalon, now a candidate for parliament for the Likud Party, said the goal of the Spanish court decision was "to delegitimize Israel and present us as war criminals."

National Infrastructure Minister Benjamin Ben-Eliezer, another Israeli official targeted in the investigation, called the Spanish court decision "ludicrous."

"Terror organizations use the courts of the free world and the mechanisms of democratic nations to file lawsuits against a country that operates against terror," Ben-Eliezer, the defense minister at the time of the 2002 bombing, said in a statement. "I do not regret my decision. Salah Shehadeh was a Hamas activist, an arch-murderer whose hands were stained with the blood of about 100 Israelis and who carried out the most heinous attacks against our citizens."

Current Defense Minister Ehud Barak also issued a statement in which he said: "Whoever calls the killing of a terrorist a 'crime against humanity' is living in an upside down world."

Barak added that "all senior officials in the defense establishment, current and erstwhile, have acted appropriately on behalf of Israel and from a commitment to defend its citizens."

Israel's Justice Ministry announced Friday that it had transferred material regarding the case to Spanish authorities. It criticized the launching of the case and expressed hope it would be closed soon.

"There is no doubt that this is a cynical political attempt by anti-Israel elements to abuse the Spanish court system and attack Israel," the ministry said in a statement. "The State of Israel is determined to act against these types of lawsuits in Spain and in other countries with legal and diplomatic means."

The Justice Ministry on Thursday sent the Israeli Embassy in Madrid a large amount of documents which included legal rulings and Supreme Court decisions dealing with the targeted killing of Shehadeh.

Israeli Ambassador to Spain Rafi Shotz will on Friday give the material to the Spanish judge in order to help bring a cancellation of the ruling.

Andreu announced the probe in a writ issued Thursday.

The people named in the suit include Dan Halutz, former Israel Defense Forces Chief of Staff and Israel Air Force commander at the time, as well as Ben-Eliezer and Yaalon.

Opposition leader Benjamin Netanyahu also condemned the decision to launch the probe.

"It's absurd; Israel is fighting against war criminals and they are charging us with crimes?" said Netanyahu, speaking on Army Radio.

He added: "There is nothing more ridiculous and absurd than them accusing us, a democracy legitimately protecting itself against terrorists and war criminals, of these crimes; it is absurd and makes a mockery out of international law."

Meanwhile, Israel is preparing for a wave of lawsuits by pro-Palestinian organizations overseas against Israelis involved in the latest Gaza fighting, claiming they were responsible for war crimes due to the harsh results stemming from the IDF's actions against Palestinian civilians and their property.

Senior Israeli ministers have expressed serious fears following the war about the possibility that Israel will be pressed to agree to an international investigation of the losses among non-combatants during Operation Cast Lead; or alternately, that Israelis will be faced with personal suits, such as happened to Israeli officers who were accused of war crimes in Britain for their actions during the second intifada.