Spanish Prosecutors Seek to Shelve Israel Case

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By AFP

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Public prosecutors requested Thursday that a Spanish court shelve a complaint against seven top Israeli military figures over a deadly bombing of Gaza in 2002, a lawsuit which angered Israel.

The prosecutors justified the move on the grounds that, according to information in their possession, the alleged crimes against humanity in question are already the subject of a legal procedure in Israel, a judicial official told AFP.

Spain assumes the principle of universal jurisdiction in alleged cases of crimes against humanity, genocide, and terrorism but only if the alleged crimes are not already subject to a legal procedure in the country involved.

Prosecutors argued that while "all states have a common commitment to prosecute such atrocious crimes affecting the international community" the complaint should be shelved "to avoid a duplication of proceedings" and give "preference to the jurisdiction of the state where the facts occurred", the official added.

The court was not asked to permanently drop the complaint in case information subsequently emerges that contradicts the existence of legal proceedings in Israel over the bombing.

In Jerusalem, Israeli foreign ministry spokesman Yigal Palmor said "there is nothing surprising about the news, as the complaint was groundless and stemmed only from the political aims (of the complainants) and baseless rumours."

On 29 January, Judge Fernando Andreu of the National Audience agreed to pursue the complaint against former Israeli defence minister Benjamin Ben-Eliezer and six senior military officials, sparking strong objections from Israel.

It is now up to Andreu to rule on the request to shelve the complaint, which was filed by the Palestinian Centre for Human Rights.

The complaint concerns an Israeli air attack on 22 July 2002 on Gaza City which killed a suspected leader of the Islamist movement Hamas, Salah Shehadeh, along with 14 civilians, mainly children.

Some 150 Palestinians were also wounded, according to the complaint.

Israeli Defence Minister Ehud Barak rejected the complaint as "delirious" and said he would do "everything possible to get the investigation dismissed" while the then Israeli foreign minister Tzipi Livni said Spain was being "cynically motivated" by "politically motivated bodies" that "only want to criticise Israel".

Israel's protests embarrassed the Spanish government, which wants to play an active diplomatic role in efforts to bring peace to the Middle East.

In January Livni said Spanish Foreign Minister Miguel Angel Moratinos had told her that Madrid planned to change "as soon as possible" its law regarding universal justice to "prevent other legal proceedings of this type".

In addition to Ben-Eliezer, the complaint names the then army chief of staff, General Moshe Yaalon, as well as the then head of the Israeli air force, General Dan Halutz.

It also names General Doron Almog, national security council head Giora Eiland, Michael Herzog, a defence ministry official, and Avi Dichter, director of the Shin Beth intelligence agency.

Andreu's decision came just days after Israel's offensive against Hamas in Gaza, which according to Gaza medics killed more than 1,300 Palestinians, nearly a third of them children, and injured 5,300 others.

Thirteen Israelis were killed during the 22-day military offensive, which was launched at the end of last year with the declared aim of stopping rocket attacks on southern Israel by Palestinian militants