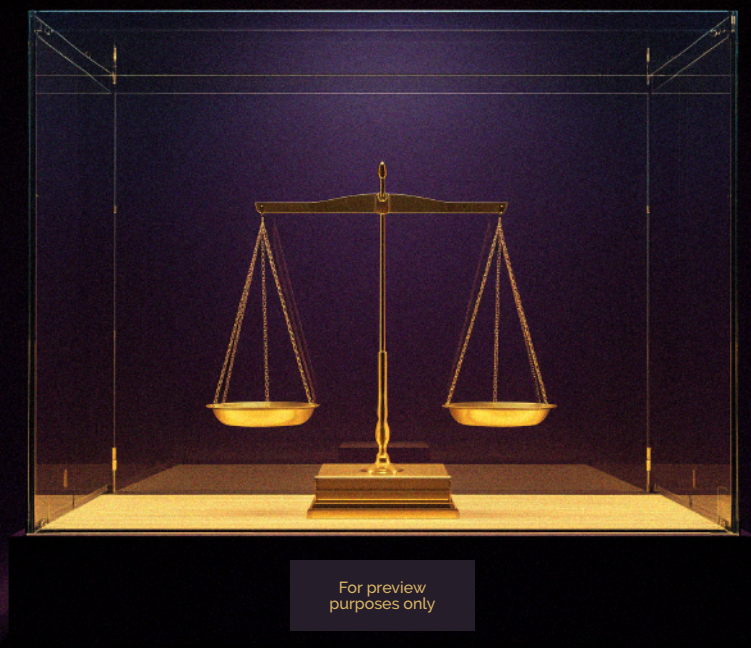




مركز العودة الفلسطيني
Palestinian Return Centre

Justice or Politics?

THE ICC & THE NETANYAHU PROSECUTION



Introduction

The International Criminal Court (ICC) was created to investigate and prosecute individuals accused of the gravest crimes under international law—genocide, war crimes, crimes against humanity, and the crime of aggression. Its mandate embodies the global effort to combat impunity by holding perpetrators accountable and deterring the recurrence of such violations.¹

The Court's establishment marked a turning point in the development of international criminal justice. Unlike the ad hoc tribunals created by the UN Security Council, which often proved limited and inconsistent, the ICC provides a permanent mechanism to ensure that those responsible for the most serious crimes face justice.² By doing so, it reinforces the principle that international crimes cannot go unpunished.³

In this context, a significant milestone came on 21 November 2024, when Pre-Trial Chamber I of the ICC issued arrest warrants for Benjamin Netanyahu, the Israeli Prime Minister, and former Defense Minister Yoav Gallant. The judges determined that the crimes attributed to Netanyahu fall squarely within the

¹ International Criminal Court, About the Court, <https://www.icc-cpi.int/about/the-court>.

² Hamnia Ali, "Jurisdiction of the International Criminal Court," Al-Fikr Magazine, Issue 14, University of Mohamed Khider - Biskra, p. 388, <https://n9.cl/n29ge>.

³ Intenan Muhammad Ali Ahmad, "The International Criminal Court," Arab Journal of Scientific Publishing, Issue 8, No. 78, April 2, 2025, p. 170, <https://n9.cl/0km3u>.

Court's jurisdiction.⁴ However, as the ICC lacks its own enforcement powers, it depends on the cooperation of member states to execute arrests and transfer suspects to The Hague.⁵ States parties to the Rome Statute are legally bound to cooperate under Part 9, while non-member states are not obliged to do so, though they may assist voluntarily.⁶

This report examines the degree to which ICC member states have fulfilled their obligations in relation to Netanyahu's arrest warrant. It considers the responses of states visited or transited by him, assesses their positions toward the Court's decisions, and concludes with recommendations stressing the importance of upholding international justice through the effective implementation of the warrant.

⁴ International Criminal Court, ICC Pre-Trial Chamber I rejects the State of Israel's Challenges to Jurisdiction and Issues Warrants of Arrest for Benjamin Netanyahu and Yoav Gallant, 21 November 2024), <https://shorturl.at/mnaBO>.

⁵ Fadi Al-Abdullah, interview titled: "What Next at the International Criminal Court, after the Arrest Warrants issued against Netanyahu, Galant, and Al-Daif?", UN News website, 22 November 2025, <https://news.un.org/ar/interview/2024/11/1136896>.

⁶ *ibid*



Evasion by Air: Netanyahu's Post-Warrant Trips



Benjamin Netanyahu's first international trip after the ICC issued its arrest warrant took place on 2 February 2025, when he traveled to the United States, just three months after the warrant was announced. The flight to Washington lasted more than 13 hours and followed an unusually extended route, deliberately passing over U.S. military bases to minimize the risk of an emergency landing in a country that might enforce the warrant.⁷

⁷ Amy Spiro, "Netanyahu Flight Path to US Was Lengthened due to Concerns over ICC Warrant, Health," *The Times of Israel*, March 27, 2025, <https://www.timesofisrael.com/netanyahu-flight-path-to-us-lengthened-due-to-concerns-over-icc-warrant-health/>

A second journey occurred on 3 April 2025, this time to Hungary. In response, the Court transmitted a request for Netanyahu's provisional arrest to the Hungarian authorities, reminding them that under Article 97 of the Rome Statute they could initiate consultations if they faced difficulties in implementing the request.



The Hungarian government, however, neither complied nor engaged in consultations with the Court.⁸

Later that same month, Netanyahu traveled from Hungary to the United States, with his plane passing through the airspace of France, Italy, and Croatia.⁹

⁸ International Criminal Court, *Finding under article 87(7) of the Statute on Hungary's Non-Compliance with the Court's Request to Cooperate in the Provisional Arrest of Benjamin Netanyahu and Referral to the Assembly of States Parties*, Pre-Trial Chamber I, ICC-01/18-420 (3 July 2025), 4, <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180c2a33e.pdf>.

⁹ Sondas Asem, "Was it legal for France, Italy and Greece to Let Netanyahu Fly over Their Airspace?" *Middle East Eye*, July 8, 2025, <https://www.middleeasteye.net/news/israel-netanyahu-icc-arrest-warrant-was-legal-france-italy-greece-airspace>.

On 7 July 2025, he returned once again to the United States, which, despite the charges of war crimes and crimes against humanity in Gaza, has consistently declined to enforce the ICC's arrest warrant.¹⁰

During these trips, several European states—including France, Italy, and Greece—permitted Netanyahu's aircraft to cross their airspace, a decision that has prompted renewed scrutiny of their responsibilities under international law.¹¹

Legal Responsibilities of States in Enforcing International Justice

The duty to enforce International Criminal Court (ICC) decisions operates on two levels; First, states that are parties to the Rome Statute are legally bound to accept the Court's jurisdiction and comply with its rulings; Second, non-party states may also accept the Court's jurisdiction in specific cases by submitting a formal declaration to the ICC Registrar, as provided under Article 12(2) of the Statute.¹²

In the case of Benjamin Netanyahu's travels, Hungary is particularly significant. As a state party to the Rome Statute, Hungary was obligated to execute the arrest warrant.¹³ Instead, Prime Minister Viktor Orbán

¹⁰ "Netanyahu Visits U.S. Despite ICC Arrest Warrant as Trump Touts Possible Ceasefire," Democracy Now!, July 7, 2025, <https://n9.cl/qqn4q>.

¹¹ Al Jazeera, "UN Expert Albanese Slams States That Let Netanyahu Fly Over Airspace to US," July 9, 2025, <https://www.aljazeera.com/news/2025/7/9/uns-albanese-slams-states-that-let-netanyahu-fly-over-airspace-for-us-trip>.

¹² Office of the United Nations High Commissioner for Human Rights, Rome Statute of the International Criminal Court, <https://shorturl.at/Zza07>.

¹³ Amnesty International, Hungary: Withdrawal from ICC does not absolve Hungary of its legal obligation to arrest fugitive Benjamin Netanyahu, 3 April 2025, <https://shorturl.at/dBG19>.



announced on 3 April 2025, during Netanyahu's visit to Budapest, that his government intended to withdraw from the ICC.

This decision was formalized on 20 May 2025, with Hungary declaring its withdrawal effective as of 2 June 2025.¹⁴

However, under the Rome Statute, withdrawal takes effect only after one year. Until then, Hungary remained fully bound by its obligations, including the duty to arrest and surrender Netanyahu. The withdrawal announcement was therefore widely viewed as an effort to shield Netanyahu and obstruct the Court's work, without relieving Hungary of its legal responsibilities.¹⁵

¹⁴ Human Rights Watch, "Hungary: Orban Government Withdraws from ICC," June 16, 2025, <https://www.hrw.org/news/2025/06/16/hungary-orban-government-withdraws-from-icc>.

¹⁵ Amnesty International, Hungary: Withdrawal from ICC does not absolve Hungary of its legal obligation to arrest fugitive Benjamin Netanyahu, 3 April 2025, <https://shorturl.at/dBGi9>.

The issue of legal responsibility extends beyond Hungary. Other states, such as Italy, Greece, and France, allowed Netanyahu's aircraft to pass through their airspace in July 2025, despite being parties to the Rome Statute. Their actions raised serious concerns about their compliance with international law and their duty to cooperate with the ICC in the enforcement of arrest warrants against individuals accused of war crimes and crimes against humanity.¹⁶

This concern is further reinforced by the findings of Francesca Albanese, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Her report called for the situation in Palestine, particularly in Gaza, to be referred to the ICC for investigation into possible war crimes and genocide. It concluded that there are reasonable grounds to believe that grave crimes have been committed against Palestinians, underscoring the urgent need for full accountability.¹⁷

that states possess both the capacity and the legal duty to enforce ICC mandates.

Precedents confirm that compliance is both possible and necessary. On 29 November 2011, Côte d'Ivoire surrendered its former president Laurent Gbagbo to the ICC pursuant to an arrest warrant issued by the Pre-Trial Chamber on 23 November 23, 2011.¹⁸

Likewise, in 2005, Congolese militia leader Thomas Lubanga was arrested and transferred to The Hague, where he was prosecuted for war crimes,

¹⁶ Al Jazeera, "UN Expert Albanese Slams States That Let Netanyahu Fly Over", Ibid.

¹⁷ The United Nations, "Anatomy of a Genocide – Report of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 to Human Rights Council (A/HRC/55/73)", 1 July 2024, <https://shorturl.at/xe4MU>.

¹⁸ Amnesty International Côte d'Ivoire. The transfer of Laurent Gbagbo marks the first significant steps towards addressing impunity, 30 November 2011, <https://shorturl.at/Q7hcd>.

including the recruitment and use of child soldiers during the Congolese civil wars.¹⁹

These examples underscore that states not only have the legal duty but also the capacity to enforce ICC mandates.

Conclusion

The International Criminal Court's (ICC) prosecution of Benjamin Netanyahu marks a defining test for international justice. It exposes the enduring gap between the principle of accountability and the political or strategic interests of states. While the Court was designed as an independent legal body to combat impunity, reluctance and even outright defiance by certain state parties highlight the difficulties in enforcing its mandates. The question of how to secure implementation of the arrest warrant against Netanyahu remains central to the credibility of the ICC.²⁰

Despite these obstacles, insisting on the execution of arrest warrants is not optional but essential. Upholding accountability for the gravest international crimes strengthens respect for international law, safeguards the dignity of victims, and sustains public trust in global institutions. Justice that exempts the powerful risks losing its legitimacy and perpetuating a system where might prevails over right.²¹

¹⁹ Dr. Muhammad Hassan Ahmad Jad, "Challenges Facing the International Criminal Court in Prosecuting Perpetrators of International Crimes," *Journal of Legal and Economic Studies*, vol. 10, no. 3 (September 2024), <https://shorturl.at/LT1p3>.

²⁰ Jaibal Naduvath and Dharmil Doshi, *Justice on trial: The ICC, Israel, and the politics of accountability*, Observer Research Foundation, <https://www.orfonline.org/expert-speak/justice-on-trial-the-icc-israel-and-the-politics-of-accountability>.

²¹ *ibid*

Findings

1. | **Obstacles in Enforcement:**

Netanyahu's international travels following the warrant underscored the ICC's enforcement challenges, particularly in states prioritizing political alliances with Israel.

2. | **Justice vs. Politics:**

Several states parties, including Hungary, France, Greece, and Croatia, failed to comply with arrest obligations, reflecting the dominance of political interests over international law.

3. | **Evasion of Legal Duties:**

Hungary's announced withdrawal from the ICC highlights attempts by some states to sidestep obligations, thereby undermining the Court's authority.

4. | **Established Precedents:**

The extradition of Laurent Gbagbo (29 November 2011) and the arrest of Thomas Lubanga (2005) reaffirm the binding duty of states to cooperate with the ICC, regardless of political pressures.

5. | **Prevention of Genocide:**

Implementing the arrest warrant against Netanyahu is not only a matter of legal compliance but also a step toward halting ongoing atrocities and preventing further genocide.

Recommendations

1. | Strengthen Enforcement Mechanisms:

The international community should develop binding mechanisms, supported by multilateral cooperation, to ensure ICC arrest warrants are implemented.

2. | Increase Diplomatic Pressure:

States parties and the broader international community must exert sustained political and diplomatic pressure on governments that ignore ICC obligations.

3. | Prioritize International Law:

States must uphold international justice above strategic or political alliances to preserve the integrity of the global legal system.

4. | Independent Monitoring:

Establish a permanent mechanism to track and document violations of ICC cooperation obligations, issuing periodic public reports to encourage compliance.

5. | Restrict Netanyahu's Movements:

Countries granting airspace or transit permits should reassess their legal responsibilities and prevent such permissions from enabling impunity.

6. | Mobilize International Institutions:

The United Nations, European Union, and other bodies should intensify diplomatic pressure on states facilitating Netanyahu's travel without arrest.



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