France says Netanyahu has ‘immunity’ from ICC warrants

AFP- Provisions for immunity from prosecution at the International Criminal Court apply to Israeli Prime Minister Benjamin Netanyahu, the French foreign ministry said Wednesday.
It said the Israeli leader was covered by immunity rules that apply to states which are not a party to the ICC. Israel is not an ICC member.

“A state cannot be held to act in a way that is incompatible with its obligations in terms of international law with regards to immunities granted to states which are not party to the ICC,” the French statement said.

“Such immunities apply to Prime Minister Netanyahu and other ministers in question, and must be taken into consideration should the ICC ask us to arrest them and hand them over,” it said.

Earlier Wednesday, Foreign Minister Jean-Noel Barrot had already said that France considered that some leaders could enjoy immunity from ICC prosecution.

Asked if France would arrest Netanyahu if he stepped on French territory, Jean-Noel Barrot did not give a specific answer in an interview with Franceinfo radio.

He said France “is very committed to international justice and will apply international law based on its obligations to cooperate with the ICC.”

But he added that the court’s statute “deals with questions of immunity for certain leaders”.

“It is ultimately up to the judicial authorities to decide,” he added.

The ICC this month issued warrants for Netanyahu, former Israeli defence minister Yoav Gallant and Hamas military chief Mohammed Deif. Netanyahu has slammed the move.

The EU's foreign policy chief Josep Borrell has said the arrest warrants are "binding" and should be implemented.

However unlike some European states, France has so far taken a more cautious stance on the warrants.

Barrot's comments marked the first time a top French official has evoked a possible immunity.

– 'Deeply problematic' –

Unconfirmed media reports have said that Netanyahu angrily raised the issue in telephone talks with President Emmanuel Macron and urged Paris not to enforce the decision.

France has been instrumental in efforts to end fighting in the Middle East and, with the United States, helped broker a ceasefire between Israel and Lebanon that came into force Wednesday.

Article 27 of the Rome Statute – the foundation of the ICC – states that immunity "shall not bar the Court from exercising its jurisdiction over such a person."

But article 98 says a state cannot "act inconsistently with its obligations under international law with respect to the… diplomatic immunity of a person."

France's stance on potential immunity for Netanyahu prompted some strong reactions Wednesday, both at home and abroad.

Amnesty International called the French stance "deeply problematic", saying it ran counter to the government's obligations as an ICC member.

"Rather than inferring that ICC indictees may enjoy immunity,

France should expressly confirm its acceptance of the unequivocal legal duty under the Rome Statute to carry out arrest warrants," said Anne Savinel Barras, president of Amnesty International France.

French Green party boss Marine Tondelier, calling the government's stance "shameful", said it was probably the result of an agreement between the French and Israeli leaders.

"Surely that was the deal, that France would get a mention in the official statement announcing the ceasefire in Lebanon that was published by France and the United States yesterday," she said on X.

"Again, France is bending over backwards to meet Benjamin Netanyahu's demand to pick him over international justice," she said.

Barrot meanwhile hailed the ceasefire as a major success for France and expressed hope it would result in the "reform" of Lebanon after years of crisis.

The ceasefire provides "that the Israeli army withdraws from southern Lebanon… and that it is replaced by a massive deployment of the Lebanese armed forces".

"In this context, France will play its full part," Barrot said.

AFP