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AP FACT CHECK

A warrant for Netanyahu's arrest was requested. But no decision was made about whether to issue it



FILE - Exterior view of the International Criminal Court, or ICC, in The Hague, Netherlands, Tuesday, April 30, 2024. Social media users are falsely claiming that the ICC issued an arrest warrant for Israeli Prime Minister Benjamin Netanyahu. (AP Photo/Peter Dejong, File) [Read More](#)



BY **MELISSA GOLDIN**

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CLAIM: The International Criminal Court issued an arrest warrant for Israeli Prime Minister Benjamin Netanyahu.

AP'S ASSESSMENT: False. ICC Chief Prosecutor Karim Khan [announced Monday](#) that he is [seeking arrest warrants](#) for Netanyahu and Israeli Minister of Defense Yoav Gallant, as well as three Hamas leaders, over

actions taken during the [Israel-Hamas war](#). A panel of three judges will now decide whether to issue the warrants and allow a case to proceed. Such decisions typically take two months.

THE FACTS: Social media users are misrepresenting the warrants' status, including that of Netanyahu, by claiming that they have already been approved by the ICC.

“BREAKING: The International Criminal Court issued an arrest warrant for Israeli Prime Minister Netanyahu,” reads one X post that had received more than 6,400 likes and shares as of Monday.

Another X post, referring to Syrian President Bashar al-Assad, states: “Let me get this straight: the ICC just issued arrest warrants against Israeli officials, but has never issued an arrest warrant against say, Bashar al-Assad?! ICC is now completely illegitimate.”

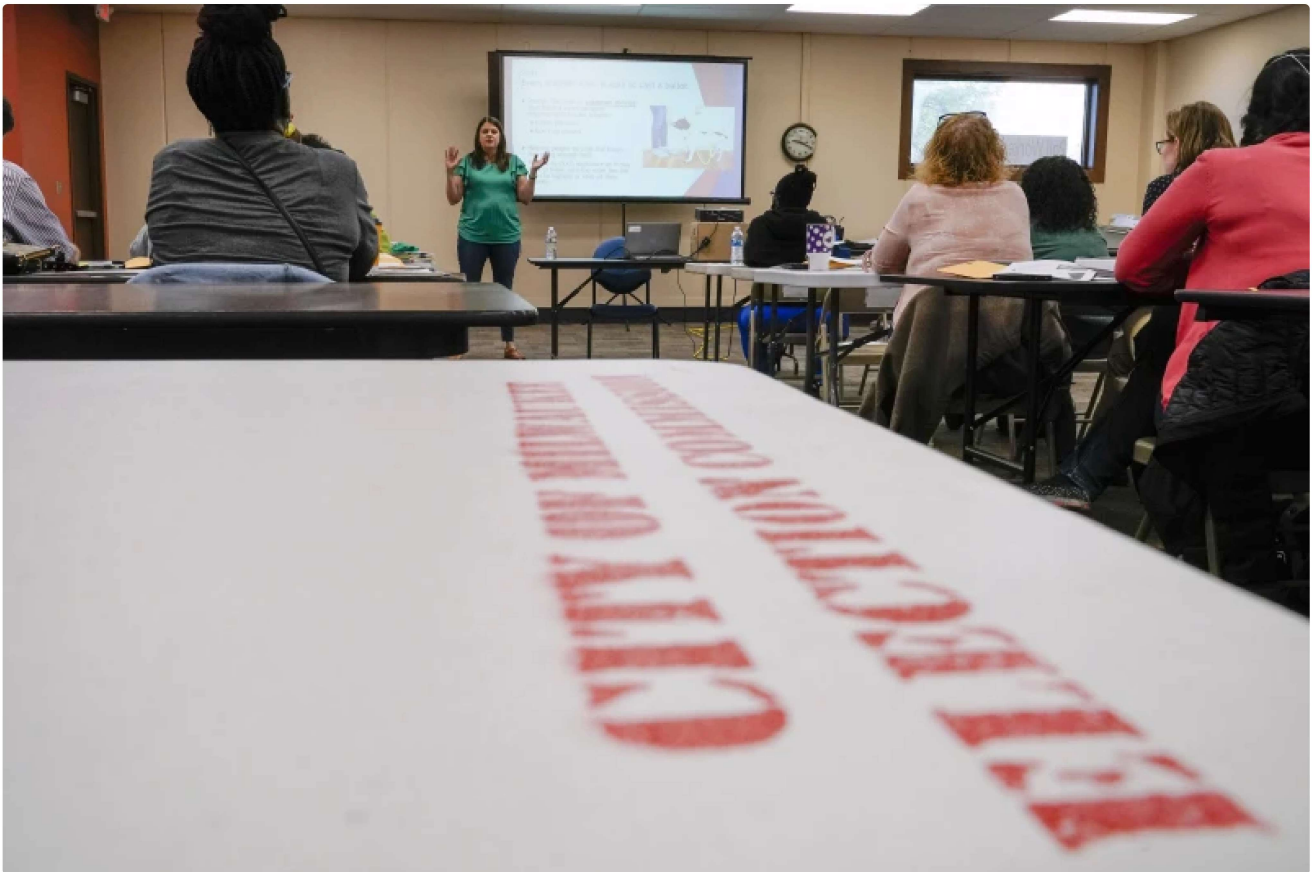
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But no warrants have been issued.

Khan [said on Monday](#) that he is [seeking arrest warrants](#) for Netanyahu, Gallant and three Hamas leaders — Yehia Sinwar, Mohammed Deif and Ismail Haniyeh — who he believes are responsible for war crimes and crimes against humanity in the Gaza Strip and Israel. [This means](#) that a panel of three judges will now decide whether to issue the arrest warrants and allow the case to proceed.

The judges typically take two months to make such decisions. A warrant for Russian President [Vladimir Putin](#), for example, was issued in March 2023 after nearly a month of deliberations. Ousted Sudanese autocrat [Omar al-Bashir](#) faced his first of two ICC warrants eight months after it was requested. Neither has been arrested.

Israel is not a member of the ICC, so even if the arrest warrants are issued, Netanyahu and Gallant do not face any immediate risk of prosecution, [The Associated Press has reported](#). But the threat of arrest could make it difficult for the Israeli leaders to travel abroad.

Netanyahu [called Khan's move](#) a “disgrace” and accused the prosecution of antisemitism, vowing to press ahead with Israel's war against Hamas militants. Hamas has also denounced the ICC prosecutor's request to arrest its leaders, saying it “equates the victim with the executioner.”

The ICC was established in 2002 as the permanent court of last resort to prosecute individuals responsible for the world's most heinous atrocities — war crimes, crimes against humanity, genocide and the crime of aggression. The U.N. General Assembly endorsed the ICC, but the court is independent. Dozens of countries don't accept the court's jurisdiction over war crimes, genocide and other crimes. They include Israel, the United States, Russia and China.

Israel [is also facing](#) a South African case in the International Court of Justice, the U.N.'s top court, accusing Israel of genocide. It denies those charges.

This is part of the AP's effort to address widely shared false and misleading information that is circulating online. [Learn more about fact-checking at AP.](#)



MELISSA GOLDIN

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¿Quién es la jueza mexicana que decidirá el futuro de Netanyahu en La Haya?

La Corte Penal Internacional decidirá si proceden o no las órdenes de arresto contra el primer ministro de Israel y líderes de Hamas.

mié 22 mayo 2024 08:51 AM



Expansión Digital

La mexicana **Socorro Flores Liera** está entre el cuerpo de jueces que decidirán sobre el futuro del primer ministro de Israel, Benjamín Netanyahu. ¿Quién es y por qué es tan trascendental su posición en la **Corte Penal Internacional**?

¿Quién es Socorro Flores Liera?

Socorro Flores Liera es una diplomática y jurista mexicana que actualmente ocupa el cargo de jueza en la Corte Penal Internacional (CPI). Ingresó a la CPI en marzo de 2021, con un mandato que se extiende hasta 2030.

Antes de su nombramiento, Flores Liera tuvo una larga carrera en el Servicio Exterior Mexicano y en la Secretaría de Relaciones Exteriores de México.

Entre otros roles, fue representante permanente de México ante los Organismos Internacionales en Ginebra, Suiza, y subsecretaria para América Latina y el Caribe.

También fue parte de la delegación mexicana que negoció el Estatuto de Roma y jefa de la Oficina de la CPI ante la ONU entre 2006 y 2007.

¿De qué acusan a Benjamín Netanyahu?

El lunes 20 de mayo de 2024, el fiscal jefe de la CPI, Karim Khan, solicitó órdenes de arresto contra el primer ministro israelí, Benjamín Netanyahu, y el ministro de Defensa, Yoav Galant.

Los cargos se basan en posibles crímenes de guerra y crímenes contra la humanidad relacionados con el conflicto en Gaza. Además, se han solicitado órdenes de arresto contra los líderes de Hamás Yahya Sinwar, Ismail Haniya y Mohamed Deif por su participación en los ataques terroristas del 7 de octubre de 2023 contra Israel, que resultaron en la muerte de cerca de 1,200 personas y la toma de más de 240 rehenes.

¿Cuál será el papel de Flores Liera en el caso?

Socorro Flores Liera es una de los cuatro jueces de la Sala de Cuestiones Preliminares I de la CPI, la cual evaluará la solicitud de órdenes de arresto presentada por el fiscal Karim Khan.

Junto con sus colegas, la rumana Iulia Motoc, la beninesa Reine Alapini–Gansou y el francés Nicolas Guillou, Flores Liera decidirá si se emiten o no las órdenes de arresto contra Netanyahu, Galant y los líderes de Hamás. **Se espera que la Sala emita su decisión en aproximadamente dos meses.**

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¿Cuáles son las consecuencias de un arresto?

Una orden de arresto emitida por la CPI no es un veredicto, sino una señal de que las acusaciones son suficientemente serias para justificar una investigación formal.

Sin embargo, la CPI no tiene su propia fuerza policial para llevar a cabo arrestos, por lo que **la ejecución de estas órdenes depende de la cooperación de los Estados miembros.**

Si se emiten las órdenes de arresto, Netanyahu, Galant y los líderes de Hamás enfrentarían restricciones significativas en su libertad de movimiento internacional. Los 124 países que han ratificado el Estatuto de Roma de la CPI estarían obligados a arrestar a los individuos buscados si ingresan en su territorio.

La situación se complica debido a que **Israel no reconoce la jurisdicción de la CPI**, lo que hace poco probable que miembros del gobierno israelí sean juzgados en La Haya.

No obstante, la emisión de una orden de arresto podría tener un impacto diplomático significativo, similar al caso del presidente ruso Vladimir Putin, quien ha evitado la mayoría de las reuniones internacionales tras la emisión de una orden de arresto en su contra por parte de la CPI.

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Recomendaciones

Here's what to expect with the court's timeline and Israel's judicial challenge

Today's news of the ICC prosecution's application for arrest warrants represents a significant step for many victims who view the ICC as a court of last resort and who have held hope for justice before the ICC—starting as far back as 2009, when the minister of justice for the Government of Palestine [attempted](#) to lodge an Article 12(3) declaration and refer the situation to the Court. With news of mounting external pressure on the ICC's OTP and threats against prosecution staff and their families if warrants were to be pursued, it is of the utmost importance that the rule of law and the independence of the ICC is respected and all parties and organs of the court can work free of influence or pressure. This is especially important now that the decision on whether to issue the requested warrants is with the pretrial chamber.

There is no set time frame in which the pretrial chamber must make its decision on the prosecution's application. The pretrial chamber will need to review the evidence submitted by the prosecution against the charges sought, but the chamber has previously acted with expediency to issue decisions granting arrest warrants within about a month. For example, the [warrants](#) against Putin and Russian official Maria Alekseyevna Lvova-Belova were issued in about a month's time. So, too, were [warrants](#) against Russian military commanders Sergei Kobylash and Viktor Sokolov. Warrants against other heads of state were also issued in a similar time frame, including against Libyan leader [Muammar al-Qaddafi](#) and Ivorian President [Laurent Gbagbo](#).

If the pretrial chamber decides to grant the prosecution's request for arrest warrants, focus will shift to the principle of complementarity and the process for challenging the admissibility of the cases before the ICC. As mentioned by the prosecutor in his [statement](#) today, the principle of complementarity allows the ICC to defer a case to the

national authorities only if there is an independent and impartial judicial process in place to show that the state is “willing and able” to conduct the case instead of the ICC.

However, attention should also be paid to the ICC’s prior case law on this standard and particularly to the high threshold imposed when Kenya [attempted](#) to challenge the admissibility of the post-election violation cases against six Kenyan officials. Here, the ICC found that a state must demonstrate that it is not only “willing and able” to conduct the case, but that there are active steps being taken by the state to investigate the same persons named by the ICC and for the same conduct as reflected in the crimes within the ICC warrant. This would mean that, for example, should Israel decide to challenge the warrants’ admissibility (if issued), it would need to submit tangible proof that there is an open and active investigation in Israel against Netanyahu and Gallant for the same underlying conduct of the crimes charged by the ICC.

—[Haydee Dijkstal](#) is a nonresident senior fellow with the Strategic Litigation Project at the Atlantic Council and a practicing attorney in international criminal law and international human rights law. She is currently representing victims at the ICC in the situation in Afghanistan and the situation in Ukraine.



ANALYSIS, MIDDLE EAST

EXPLAINER - What next as ICC prosecutor seeks warrants for Israeli leaders?

Pre-trial chamber with three judges will evaluate ICC Prosecutor Karim Khan's application to determine if the legal standard of 'reasonable grounds' has been met

Rabia Ali | 22.05.2024 - Update : 27.05.2024



- Judges will grant the request and announce a decision 'within three to six weeks,' says Sergey Vasiliev, associate professor at University of Amsterdam's Law Faculty

- More warrant applications could come and the current selection of charges is not necessarily the last word on the matter, Vasiliev tells Anadolu

- If warrants are issued, the ICC can send requests 'confidentially and through diplomatic or other channels' to signatory states to arrest any person found on their territory

ISTANBUL

As expected, the backlash has been swift: leaders of the Western world, namely US President Joe Biden and UK Prime Minister Rishi Sunak, blasting the International Criminal Court (ICC) after its prosecutor applied for arrest warrants for top Israeli officials.

Karim Khan, the chief prosecutor of the ICC, is seeking warrants for Prime Minister Benjamin Netanyahu and Defense Minister Yoav Gallant for war crimes and crimes against humanity committed during Israel's ongoing Gaza offensive, which has now killed more than 35,600 Palestinians and wounded nearly 80,000 more.



Among the charges laid out by Khan's team against the Israeli officials are extermination, using starvation as a method of warfare, willfully causing great suffering, and intentionally directing attacks against a civilian population.

In all, Khan has applied for arrest warrants for five people – Netanyahu, Gallant, and Hamas leaders Yahya Sinwar, Ismail Haniyeh and Mohammed Diab Ibrahim al-Masri, also known as Mohammed Deif.

While Israel's staunch allies like the US and UK criticized the move against Netanyahu and Gallant, countries around the world have come out in support, notably including European nations such as France and Belgium.

What are the next steps?

The ICC prosecutor's request has gone to pre-trial chamber, which will decide to issue the warrants or not.

In this case, it is the Pre-Trial Chamber I, currently composed of judges Iulia Motoc of Romania, Reine Alapini-Gansou from Benin, and Nicolas Guillou of France, according to Sergey Vasiliev, an associate professor at the University of Amsterdam's Law Faculty.

"The decision involves an evaluation of whether there are reasonable grounds to believe that said individuals have committed the crimes within the ICC's jurisdiction and whether the arrest (as opposed to a summons to appear) would be necessary," he told Anadolu.

The judges will go through the alleged facts, evidence and other information given by the prosecutor to determine whether the legal standard of "reasonable grounds" has been met, he added.

What outcome is expected and when?

Like many legal experts, Vasiliev also believes that Khan's request for warrants will be approved.

"I expect the pre-trial chamber judges to grant the prosecutor's request. I assume the investigation has been conducted thoroughly over the past seven months," he said.

"The evidence ... would be amply sufficient to meet the 'reasonable grounds' threshold and the applications would weave the alleged facts into a concise yet compelling legal narrative."

He explained that the standard for "reasonable grounds" is not as demanding as others like "substantial grounds to believe."

"Applications for arrest warrants generally are not expected to provide an elaborate analysis of the evidence and any legal issues," he said.



He cited the prominent 2023 case of Russia's President Vladimir Putin and the Russian Presidential Children's Rights Commissioner Maria Alekseyevna Lvova-Belova, when an ICC pre-trial chamber "needed less than a month to grant the prosecutor's request to issue arrest warrants."

Given the "urgency of the present matter, the high-profile character of the cases against the Hamas and Israeli leadership, and the dire nature of the humanitarian situation on the ground in Gaza," Vasiliev said he expects a decision "within three to six weeks."

Can the application be rejected?

While the general consensus seems to be that Khan's request will be approved, Vasiliev explained that there is a possibility that the judges do not grant "the applications of the prosecutor in whole or in part, for example, in relation to some of the charges."

If that happens, Khan may appeal the decision, but would first need permission from the chamber to do so, as there is "no automatic right to appeal for arrest warrant decisions," he said.

To get the right to appeal, the prosecutor "must show that the decision concerns an issue significantly affecting the fair and expeditious conduct of the proceedings or the outcome of the trial, and the immediate resolution of which ... may materially advance the proceedings," said the professor.

Can Khan apply for more arrest warrants?

In his statement on Monday, the ICC prosecutor clarified that the investigation being carried out by his office is continuing and they are "advancing multiple and interconnected additional lines of inquiry."

Khan asserted that his team "will not hesitate to submit further applications for warrants of arrest if and when we consider that the threshold of a realistic prospect of conviction has been met."

On this, Vasiliev pointed out that in the current application "some possible charges are conspicuous by their absence, most notably genocide."

"The war crimes and crimes against humanity charges in relation to which the arrest of the five persons is sought, overall reflect the information in the public domain, and there was an abundance of the relevant data the prosecutor could draw upon to complement any evidence his office may have collected from eyewitnesses," he said.

"But the current lists could be expanded still and more warrant applications may be on the way. The present selection of the charges is not necessarily the last word on the matter."

How are the warrants issued and what happens then?

If the judges grant the request, arrest warrants may be issued as a public document or under seal, or there could be an announcement from the pre-trial chamber without publishing the document itself, as was the case with Putin and Lvova-Belova, explained Vasiliev.

"If the decision itself or the fact of its issuance is rendered public, the relevant individuals and states will be put on notice," he said.

In his particular case, he expects the chamber "will issue public decisions or make public the fact that it grants, or not, the prosecutor's applications."

"If it indeed grants the applications and goes public, the chamber will at least specify the names, the charges (and provide a short summary of underlying factual allegations), and the modes of liability with which the persons would be charged," he said.



and hand over that individual if they set foot on their territory.

However, states that are not party to the ICC's founding Rome Statute, such as Israel and the US, do not have any such obligation.

Vasiliev stressed that "state cooperation is essential" since the ICC does not have a police force of its own.

"Therefore, if and when the decision on the warrants is issued, the court will transmit the requests for the arrest and surrender of the persons to any state on the territory of which they may be found," he explained.

These requests can be sent confidentially and through diplomatic or other channels.

"The requested state is expected to consult with the ICC if the person challenges their surrender in a national court," said Vasiliev.

"That state is meant to check whether the (ICC) has already issued a ruling on the admissibility of the case and may postpone surrender until such a ruling is rendered and, if the case has been ruled admissible, it should execute the surrender request."

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