



November 27, 2024

Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Honorable John Thune
Majority Leader-Elect
United States Senate
Washington, DC 20510

RE: Urging Immediate Sanctions to End the ICC's Illegitimate Infringement on the Sovereignty of the Nation of Israel

Dear Leader Schumer, Leader McConnell, and Leader-Elect Thune:

The American Center for Law and Justice (ACLJ) is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors and informs the public about governmental activity. The ACLJ and its global affiliated organizations – including the European Centre for Law and Justice credentialed with Special Consultative Status at the UN ECOSOC – are committed to defending the national security of the United States and that of its critical ally Israel, as well as to the ongoing viability of freedom and liberty in the United States and around the world.

Israel has been under a series of unprecedented assaults from terrorist groups, especially the Iran-supported proxy groups Hamas and Hezbollah. On October 7, 2023, Iran-backed Hamas invaded Israel in a surprise terror attack that was one of the worst in Israel's history, brutally murdering, mutilating, and sexually assaulting approximately 1,200 Israeli and foreign civilians, as well as kidnapping approximately 250 hostages. Rather than hold accountable the perpetrators of those attacks, the International Criminal Court (ICC) has now issued an arrest warrant for Israeli leaders who are *defending* against those heinous acts, including Israeli Prime Minister Benjamin Netanyahu.¹

The United States is not a party to the Rome Statute, has never accepted ICC jurisdiction over its personnel, and has consistently rejected ICC assertions of jurisdiction. Likewise, Israel is not a party to the ICC and the ICC has no authority or jurisdiction over its leaders. A State Department official has rightly said, "[t]he United States fundamentally rejects the Court's decision to issue arrest warrants for senior Israeli officials. We remain deeply concerned by the

¹ <https://www.reuters.com/world/us-rejects-icc-arrest-warrants-israeli-officials-white-house-spokesperson-says-2024-11-21/>

Prosecutor’s rush to seek arrest warrants and the troubling process errors that led to this decision.”² We wholeheartedly agree with this assessment and write to urge the swift imposition of significant sanctions to hold the ICC accountable for this wanton violation of international law. The United States should use all legislative and executive authorities at its disposal to punish and deter this infringement on the sovereignty of our ally – an overreach that simultaneously threatens the sovereignty of the United States. The ICC has undermined the security of Israel, fomented broader regional destabilization across the Middle East, and threatened United States personnel and interests. For these reasons, these actions constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and merit immediate action.

The International Economic Emergency Powers Act (IEEPA) authorizes the President to impose immediate sanctions. 50 U.S.C. §§ 1701-1708. Following the President’s declaration of a national emergency with respect to “any unusual or extraordinary threat, which has as its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States,” the IEEPA grants the President certain additional powers. 50 U.S.C. § 1701(a). The President may “block . . . , regulate, . . . prevent or prohibit, any acquisition, . . . use, transfer, . . . dealing in, or exercising any right, power or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States.” *Id.* § 1702(a)(1)(B). Under IEEPA, the President can issue an executive order designating persons associated with the ICC as subject to economic sanctions, as well as subjecting these designated persons and certain others to IEEPA’s civil and criminal penalties for violations. This unjustifiable attack on Israel’s sovereignty merits a Presidential declaration of an emergency and the corresponding sanction of ICC officials.

Fortunately, there is a clear precedent for an appropriate executive action to address the ICC’s abuse of power. President Trump’s Executive Order (EO) 13928, “Blocking Property of Certain Persons Associated with the International Criminal Court,” issued on June 11, 2020, reads: “These actions on the part of the ICC, in turn, threaten to infringe upon the sovereignty of the United States and impede the critical national security and foreign policy work of United States Government and allied officials, and thereby threaten the national security and foreign policy of the United States.”³ Attempts by the ICC to arrest “personnel of countries that are United States allies and who are not parties to the Rome Statute or have not otherwise consented to ICC jurisdiction, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States.”⁴ The Biden Administration was gravely mistaken when it revoked this EO in April 2021. EO 13928 must be immediately reinstated.

Congress should supplement these executive branch actions to hold the ICC accountable. We urge Congress to take appropriate action against the ICC, including through Senate passage of H.R. 8282, the Illegitimate Court Counteraction Act. That Act, which has already passed the House

² <https://www.reuters.com/world/us-rejects-icc-arrest-warrants-israeli-officials-white-house-spokesperson-says-2024-11-21/>

³ <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-blocking-property-certain-persons-associated-international-criminal-court/>

⁴ *Id.*

of Representatives with a bipartisan majority, now awaits further action in the Senate.⁵ Among other findings, H.R. 8282 states that:

(4) The ICC's actions against Israel are illegitimate and baseless, including the preliminary examination and investigation of Israel and applications for arrest warrants against Israeli officials, which create a damaging precedent that threatens the United States, Israel, and all United States partners who have not submitted to the ICC's jurisdiction.

(5) The United States must oppose any action by the ICC against the United States, Israel, or any other ally of the United States that has not consented to ICC jurisdiction or is not a state party to the Rome Statute of the ICC.⁶

Accordingly, the act would require that sanctions be imposed against a foreign person that:

(A) has directly engaged in or otherwise aided any effort by the International Criminal Court to investigate, arrest, detain, or prosecute a protected person;

(B) has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any effort by the International Criminal Court to investigate, arrest, detain, or prosecute a protected person; or

(C) is owned or controlled by, or is currently acting or purports to have acted, directly or indirectly, for or on behalf of any person that directly engages in any effort by the International Criminal Court to investigate, arrest, detain, or prosecute a protected person;⁷

We support this proposed legislation and urge Congress to send this legislation to the President's desk as soon as possible.

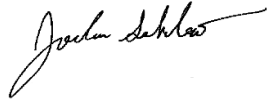
The United States cannot stand idly by as unelected and illegitimate international bureaucrats dare to threaten our sovereignty and the sovereignty of our great ally Israel. Accordingly, our executive and legislative branches must exhaust all available authorities and resources to counter the ICC's flagrant transgressions. Sanctions should include the restricting of visas and travel to the United States as well as the freezing of all assets of the ICC and any affiliated persons or parties posing a threat to the United States by their contributory actions. If the American Center for Law and Justice may provide any assistance to you in this regard, we stand ready.

Very respectfully,

⁵ <https://www.congress.gov/bill/118th-congress/house-bill/8282/all-actions>

⁶ <https://www.congress.gov/bill/118th-congress/house-bill/8282/text>

⁷ *Id.*

A handwritten signature in black ink, reading "Jordan Sekulow". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Jordan Sekulow
Executive Director
American Center for Law and Justice