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Revealed: Israeli spy chief ‘threatened’ ICC prosecutor over war crimes inquiry

Mossad director Yossi Cohen personally involved in secret plot to pressure Fatou Bensouda to drop Palestine investigation, sources say

The former head of the Mossad, Israel’s foreign intelligence agency, allegedly threatened a chief prosecutor of the international criminal court in a series of secret meetings in which he tried to pressure her into abandoning a war crimes investigation, the Guardian can reveal.

Yossi Cohen’s covert contacts with the ICC’s then prosecutor, Fatou Bensouda, took place in the years leading up to her decision to [open a formal investigation](#) into alleged war crimes and crimes against humanity in occupied Palestinian territories.

That investigation, launched in 2021, culminated last week when [Bensouda’s successor](#), Karim Khan, announced that he was seeking an arrest warrant for the Israeli prime minister, Benjamin Netanyahu, over the country’s conduct in its war in Gaza.

The prosecutor’s decision to apply to the ICC’s pre-trial chamber [for arrest warrants](#) for Netanyahu and his defence minister, Yoav Gallant, alongside three Hamas leaders, is an outcome Israel’s military and political establishment has long feared.



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Cohen (right) was appointed as director of the Mossad by Netanyahu in 2016 after working for several years as his national security adviser. Photograph: Gali Tibbon/AFP/Getty Images
Cohen's personal involvement in the operation against the ICC took place when he was the director of the Mossad. His activities were authorised at a high level and justified on the basis the court posed a threat of prosecutions against military personnel, according to a senior Israeli official.

Another Israeli source briefed on the operation against Bensouda said the Mossad's objective was to compromise the prosecutor or enlist her as someone who would cooperate with Israel's demands.

A third source familiar with the operation said Cohen was acting as Netanyahu's "unofficial messenger".

Cohen, who was one of Netanyahu's closest allies at the time and is emerging as a political force in his own right in Israel, personally led the Mossad's involvement in an almost decade-long campaign by the country to undermine the court.

Four sources confirmed that Bensouda had briefed a small group of senior ICC officials about Cohen's attempts to sway her, amid concerns about the increasingly persistent and threatening nature of his behaviour.



ICC prosecutor requests arrest warrants for Netanyahu, Gallant and three Hamas leaders – video

Three of those sources were familiar with Bensouda's formal disclosures to the ICC about the matter. They said she revealed Cohen had put pressure on her on several occasions not to proceed with a criminal investigation in the ICC's Palestine case.

According to accounts shared with ICC officials, he is alleged to have told her: “You should help us and let us take care of you. You don’t want to be getting into things that could compromise your security or that of your family.”

One individual briefed on Cohen’s activities said he had used “despicable tactics” against Bensouda as part of an ultimately unsuccessful effort to intimidate and influence her. They likened his behaviour to “stalking”.

The Mossad also took a keen interest in Bensouda’s family members and obtained transcripts of secret recordings of her husband, according to two sources with direct knowledge of the situation. Israeli officials then attempted to use the material to discredit the prosecutor.

The revelations about Cohen’s operation form part of a forthcoming investigation by the Guardian, the Israeli-Palestinian publication +972 Magazine and the Hebrew-language outlet Local Call, revealing how multiple Israel intelligence agencies ran a covert “war” against the ICC for almost a decade.

Contacted by the Guardian, a spokesperson for Israel’s prime minister’s office said: “The questions forwarded to us are replete with many false and unfounded allegations meant to hurt the state of Israel.” Cohen did not respond to a request for comment. Bensouda declined to comment.



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The ICC case dates back to 2015, when Fatou Bensouda decided to open a preliminary examination into the situation in Palestine. Photograph: Pacific Press Media Production Corp/Alamy

In the Mossad’s efforts to influence Bensouda, Israel received support from an unlikely ally: Joseph Kabila, the former president of the Democratic Republic of the Congo, who played a supporting role in the plot.

Revelations about the Mossad's efforts to influence Bensouda come as the current chief prosecutor, Khan, warned in recent days that he would not hesitate to prosecute "attempts to impede, intimidate or improperly influence" ICC officials.

According to legal experts and former ICC officials, efforts by the Mossad to threaten or put pressure on Bensouda could amount to offences against the administration of justice under article 70 of the Rome statute, the treaty that established the court.

A spokesperson for the ICC would not say whether Khan had reviewed his predecessor's disclosures about her contacts with Cohen, but said Khan had never met or spoken to the head of the Mossad.

While the spokesperson declined to comment on specific allegations, they said Khan's office had been subjected to "several forms of threats and communications that could be viewed as attempts to unduly influence its activities".

Bensouda sparks ire of Israel

Khan's decision to seek arrest warrants against Netanyahu and Gallant last week marked the first time the court had taken action against leaders of a country closely allied with the US and Europe. Their alleged crimes – which include directing attacks on civilians and using starvation as a method of warfare – relate to the eight-month war in Gaza.

The ICC case, however, dates back to 2015, when Bensouda decided [to open a preliminary examination](#) into the situation in Palestine. Short of a full investigation, her inquiry was tasked with making an initial assessment of allegations of crimes by individuals in Gaza, the West Bank and East Jerusalem.

Bensouda's decision sparked the ire of Israel, which feared its citizens could be prosecuted for their involvement in operations in [Palestinian territories](#). Israel had long been open about its opposition to the ICC, refusing to recognise its authority. Israeli ministers intensified their attacks on the court and even vowed to try to dismantle it.

Soon after commencing the preliminary examination, Bensouda and her senior prosecutors began to receive warnings that Israeli intelligence was taking a close interest in their work.



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Yossi Cohen during a reception held at the Israeli foreign ministry in Jerusalem, in May 2018. Photograph: Amir Cohen/Reuters

According to two sources, there were even suspicions among senior ICC officials that Israel had cultivated sources within the court’s prosecution division, known as the office of the prosecutor. Another later recalled that although the Mossad “didn’t leave its signature”, it was an assumption the agency was behind some of the activity officials had been made aware of.

Only a small group of senior figures at the ICC, however, were informed that the director of the Mossad had personally approached the chief prosecutor.

A career spy, Cohen enjoys a reputation in Israel’s intelligence community as an effective recruiter of foreign agents. He was a loyal and powerful ally of the prime minister at the time, having been appointed as director of the Mossad by Netanyahu in 2016 after working for several years at his side as his national security adviser.

As the head of the national security council between 2013 and 2016, Cohen oversaw the body that, according to multiple sources, began to coordinate a multiagency effort against the ICC once Bensouda opened the preliminary inquiry in 2015.

Cohen’s first interaction with Bensouda appears to have taken place at the Munich security conference in 2017, when the Mossad director introduced himself to the prosecutor in a brief exchange. After this encounter, Cohen subsequently “ambushed” Bensouda in a bizarre episode in a Manhattan hotel suite, according to multiple sources familiar with the incident.



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Bensouda with Joseph Kabila in New York. Sources claim the then DRC leader played an important supporting role in the Mossad's plot against the ICC's chief prosecutor. Photograph: ICC

Bensouda was in New York in 2018 on an official visit, and was meeting Kabila, then the president of the DRC, at his hotel. The pair had met several times before in relation to the ICC's ongoing investigation into alleged crimes committed in his country.

The meeting, however, appears to have been a setup. At a certain point, after Bensouda's staff were asked to leave the room, Cohen entered, according to three sources familiar with the meeting. The surprise appearance, they said, caused alarm to Bensouda and a group of ICC officials travelling with her.

Why Kabila helped Cohen is unclear, but ties between the two men were revealed in 2022 by the Israeli publication TheMarker, which reported on a series of secretive trips the Mossad director made to the DRC throughout 2019.

According to the publication, Cohen's trips, during which he sought Kabila's advice "on an issue of interest to Israel", and which were almost certainly approved by Netanyahu, were highly unusual and had astonished senior figures within the intelligence community.

Reporting on the DRC meetings in 2022, the Israeli broadcaster Kan 11 said Cohen's trips related to an "extremely controversial plan" and cited official sources who described it as "one of Israel's most sensitive secrets".

Multiple sources have confirmed to the Guardian the trips were partly related to the ICC operation, and Kabila, who left office in January 2019, played an important supporting role in the Mossad's plot against Bensouda. Kabila did not respond to a request for comment.

'Threats and manipulation'

After the surprise meeting with Kabila and Bensouda in New York, Cohen repeatedly phoned the chief prosecutor and sought meetings with her, three sources recalled. According to two people familiar with the situation, at one stage Bensouda asked Cohen how he had obtained her phone number, to which he replied: "Did you forget what I do for a living?"

Initially, the sources explained, the intelligence chief "tried to build a relationship" with the prosecutor and played "good cop" in an attempt to charm her. The initial objective, they said, appeared to have been to enlist Bensouda into cooperating with Israel.

Over time, however, the tone of Cohen's contact changed and he began to use a range of tactics, including "threats and manipulation", an individual briefed on the meetings said. This prompted Bensouda to inform a small group of senior ICC officials about his behaviour.

In December 2019, [the prosecutor announced](#) that she had grounds to open a full criminal investigation into allegations of war crimes in Gaza, the West Bank and East Jerusalem. However, she held off launching it, deciding first to request a ruling from the ICC's pre-trial chamber to confirm the court did indeed have jurisdiction over Palestine.



[View image in fullscreen](#)

Protesters gather outside the ICC to call for the court to prosecute Israel for war crimes. Photograph: Peter Dejong/AP

Multiple sources said it was at this stage, as the judges considered the case, that Cohen escalated his attempts to persuade Bensouda not to pursue a full investigation in the event the judges gave her the green light.

Between late 2019 and early 2021, the sources said, there were at least three encounters between Cohen and Bensouda, all initiated by the spy chief. His behaviour is said to have become increasingly concerning to ICC officials.

A source familiar with Bensouda's accounts of the final two meetings with Cohen said he had raised questions about her security, and that of her family, in a manner that led her to believe he was threatening her.

On one occasion, Cohen is said to have shown Bensouda copies of photographs of her husband, which were taken covertly when the couple were visiting London. On another, according to sources, Cohen suggested to the prosecutor that a decision to open a full investigation would be detrimental to her career.

Four sources familiar with the situation said it was around the same time that Bensouda and other ICC officials discovered that information was circulating among diplomatic channels relating to her husband, who worked as an international affairs consultant.

Between 2019 and 2020, the Mossad had been actively seeking compromising information on the prosecutor and took an interest in her family members.



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In February 2021, it was confirmed that the ICC had jurisdiction in occupied Palestinian territories. Photograph: Peter Dejong/AP

The spy agency obtained a cache of material, including transcripts of an apparent sting operation against her husband.

It is unclear who conducted the operation, or precisely what he is alleged to have said in the recordings. One possibility is that he had been targeted by the intelligence agency or by private actors of another country that wanted leverage over the ICC. Another possibility is the information was fabricated.

Once in the possession of Israel, however, the material was used by its diplomats in an unsuccessful attempt to undermine the chief prosecutor. But according to multiple sources, Israel failed to convince its allies of the significance of the material.

Three sources briefed on the information shared by Israel at a diplomatic level described the efforts as part of an unsuccessful “smear campaign” against Bensouda. “They went after Fatou,” one source said, but it had “no impact” on the prosecutor’s work.



[View image in fullscreen](#)

Trump and Netanyahu. The Trump administration imposed visa restrictions and sanctions on Bensouda in 2019-20. Photograph: Ronen Zvulun/Reuters

The diplomatic efforts were part of a coordinated effort by the governments of Netanyahu and [Donald Trump](#) in the US to place public and private pressure on the prosecutor and her staff.

Between 2019 and 2020, in an unprecedented decision, the Trump administration imposed visa restrictions and sanctions [on the chief prosecutor](#). The move was in retaliation to Bensouda’s pursuit of a separate investigation into war crimes in Afghanistan, allegedly committed by the Taliban and both Afghan and US military personnel.

However, Mike Pompeo, then US secretary of state, linked the sanctions package to the Palestine case. “It’s clear the ICC is only putting Israel in [its] crosshairs for nakedly political purposes,” he said.

Months later, he accused Bensouda, without citing any evidence, of having “engaged in corrupt acts for her personal benefit”.

The [US sanctions were rescinded](#) after President Joe Biden entered the White House.

In February 2021, the ICC's pre-trial chamber issued a ruling [confirming the ICC had jurisdiction](#) in occupied Palestinian territories. The following month, Bensouda [announced the opening](#) of the criminal investigation.

“In the end, our central concern must be for the victims of crimes, both Palestinian and Israeli, arising from the long cycle of violence and insecurity that has caused deep suffering and despair on all sides,” she said at the time.

Bensouda completed her nine-year term at the ICC three months later, leaving it to her successor, Khan, to take up the investigation. It was only after the Hamas attacks on Israel on 7 October and the ensuing war on Gaza that the ICC's investigation gained renewed urgency, culminating in last week's request for arrest warrants.

It was the conclusion Israel's political, military and intelligence establishment had feared. “The fact they chose the head of Mossad to be the prime minister's unofficial messenger to [Bensouda] was to intimidate, by definition,” said a source briefed on Cohen's operation. “It failed.”

The Guardian

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