

An End to Terror's Reign in Spain?

July 19, 2009: In 2008, a Spanish court in Madrid opened a criminal investigation against Israeli military and political leaders for their role in the 2002 IDF missile attack that killed Salah Shehadeh, a Hamas terror mastermind, as well as 14 others who had refused to evacuate the building in which he was hiding. Employing the controversial legal principle known as "universal jurisdiction," the Spanish court insisted that it had the jurisdiction to indict and prosecute foreign leaders and army officers for alleged "war crimes" committed outside of Spain against non-Spanish citizens. In countries like Belgium and Britain, this doctrine has been frequently abused as a means of attacking and defaming Israeli leaders and limiting their movement through pseudo-legal proceedings. It seemed outrageous to us that a court in Spain thought it had the right to investigate the actions of Israeli officers and troops operating against terrorists in Gaza for war crimes, while at the same time completely ignoring the genocidal missile attacks being perpetrated against Israelis by Hamas and Hizbollah.

This Spring, however, the Spanish government suddenly reversed course. In May, the legislature changed the laws that provide for universal jurisdiction, preventing future investigations like the one being lodged against the Israeli officials. And in late June, the Spanish Supreme Court ordered the lower court to halt the investigation surrounding the Shehadeh attack. What changed?

Although the Spanish faced significant diplomatic pressure to stop the investigations, our inside sources tell us that a decisive moment came when Shurat HaDin prepared a war crimes complaint (claim) to be filed in the same Spanish court-against former Spanish Foreign Minister and current foreign-affairs head of the EU, Javier Solana.

In 1999, Solana was Secretary-General of NATO when that organization's forces repeatedly dropped heavy bombs from high altitudes against Serbian troops in Kosovo, resulting in hundreds of civilian casualties. To make the implications of Spain's universal-jurisdiction law clear, Shurat HaDin was prepared to insist that it be applied to Spain's own leaders as well. This Spring, the complaint was prepared on behalf of 25 victims of the NATO bombings in Kosovo, and was on the verge of being filed when the Spanish changed their minds about universal jurisdiction -sending a powerful message to legislators and jurists throughout the Western world, that the abuse of legal institutions and courts as a forum for attacking Israel could boomerang back on them.

Shurat HaDin understands the dismissal of the Spanish case does not mean the threat of war crimes indictments against IDF officers and Israel leaders has been eradicated. We are working with Israeli agencies to organize a legal defense to this on-going danger.

For an article about the "war crimes" threat to Israeli officials:

<http://www.jpost.com/servlet/Satellite?cid=1246443717110&pagename=JPost/JPArticle/ShowFull>

For an Op-Ed I authored about the need to enact Israeli legislation:

<http://www.jpost.com/servlet/Satellite?cid=1233304644918&pagename=JPost%2FJPArticle%2FShowFull>