

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/18**
Date: **13 December 2024**

THE APPEALS CHAMBER

Before:
Judge Tomoko Akane, Presiding
Judge Luz del Carmen Ibañez Carranza
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin

SITUATION IN THE STATE OF PALESTINE

Public

**Prosecution's Urgent Request for an extension of time to respond to Israel's
Appeal Briefs OA, OA2**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor Mr Karim A. A. Khan KC Mr Andrew Cayley KC	Counsel for the Defence
Legal Representatives of the Victims	Legal Representatives of the Applicants
Unrepresented Victims	Unrepresented Applicants
The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
States Representatives Office of the Attorney General of Israel	Amicus Curiae

REGISTRY	
Registrar Mr Osvaldo Zavala Giler	Counsel Support Section
Victims and Witnesses Unit	Detention Section
Victims Participation and Reparations Section	Other

I. INTRODUCTION

1. The Prosecution respectfully requests an extension of time to file its responses to Israel's two Appeal Briefs against two of the decisions issued by Pre-Trial Chamber I on 21 November 2024 ("Decisions").¹ There is "good cause" justifying the requested extension pursuant to regulation 35(2) of the Regulations of the Court. The likely length and complexity of the briefs, their simultaneous briefing, the Appeals Section's current workload as well as the court recess justify a moderate extension of two weeks, until 20 January 2025.

II. PROCEDURAL BACKGROUND

2. On 27 November 2024, Israel filed two direct appeals before the Appeals Chamber under article 82(1)(a) of the Statute ("Appeals")² against the two Decisions, which were rendered alongside warrants of arrest against three persons in the *Situation in the State of Palestine*. Israel's Appeal Briefs are due to be filed today, 13 December 2024.

3. On 27 November 2024, simultaneously with its Appeals, Israel also filed two applications for leave to appeal before Pre-Trial Chamber I under article 82(1)(d) of the Statute against the same two Decisions ("Applications for Leave").³

4. On 29 November 2024, the Prosecution requested the Appeals Chamber to dismiss Israel's Appeals *in limine* because they are inadmissible under article 82(1)(a) ("Requests").⁴ It also requested the Appeals Chamber to discontinue the related appeal proceedings including the filing of Israel's Appeal Briefs due today, 13 December 2024.⁵

5. On 2 December 2024, the Prosecution responded to Israel's Applications for Leave to Appeal ("Responses").⁶ The Prosecution submitted, and submits, that the right forum for these proceedings is, at this stage, the Pre-Trial Chamber.

6. On 12 December 2024, the Pre-Trial Chamber deferred its decision on the Applications for Leave to Appeal until the Appeals Chamber has pronounced itself on the admissibility of Israel's appeals pursuant to article 82(1)(a).⁷

7. At the time of this filing, on 13 December 2024, the Appeals Chamber has not decided on the Prosecution's Requests, nor on the discontinuation of the appeal proceedings including

¹ [ICC-01/18-375](#) ("Decision on Israel's request for an order to the Prosecution to give an Article 18(1) notice") [ICC-01/18-374](#) ("Israel's challenge to the jurisdiction of the Court") ("Decisions").

² [ICC-01/18-385 OA](#) and [ICC-01/18-386 OA2](#) ("Appeals").

³ [ICC-01/18-387](#) and [ICC-01/18-388](#) ("Applications for Leave").

⁴ [ICC-01/18-391 OA](#) and [ICC-01/18-392 OA2](#).

⁵ [ICC-01/18-391 OA](#), fn. 9 and [ICC-01/18-392 OA2](#), fn. 9.

⁶ [ICC-01/18-393](#) and [ICC-01/18-394](#).

⁷ [ICC-01/18-398](#).

the filing of Israel's Appeal Briefs. It is therefore expected that Israel will file its Briefs against the two Decisions today. Mindful of the imminence of the Court recess (starting tonight), the Prosecution exceptionally files the present urgent request before it has been notified of Israel's Appeals.⁸

III. SUBMISSIONS

8. The Prosecution maintains its request to dismiss *in limine* Israel's two Appeals and, accordingly, to discontinue the appeal proceedings. However, considering that no decision has been rendered regarding the (in)admissibility of the Appeals, the Prosecution requests an extension of time of two weeks (until 20 January 2025) to file its responses to the Appeal Briefs. The Prosecution respectfully submits that the following factors constitute "good cause" justifying this extension.

9. *First*, there is the length and simultaneous nature of Israel's Appeal Briefs as well as the diversity and complexity of the issues to be raised, which may have important consequences for this situation.⁹ Since Israel's position is that the Decisions are "with respect to jurisdiction and admissibility", Israel would consider itself entitled to file two briefs of up to 60 pages each,¹⁰ which the Prosecution will have to respond to simultaneously. Moreover, as evidenced in previous litigation, the Prosecution will need to address a multiplicity of diverse and complex issues.¹¹

10. *Second*, there is the high workload of the Appeals Section as well as the Court recess and holiday period.¹² The Appeals Section is facing an extremely busy period in the light of the *Al-Hassan* Trial Judgment and Sentencing Decision as well as the support it provides in other situations. This is compounded by the fact that the drafting of the responses falls squarely within the Court recess and holiday period and that this litigation comes on the heels of continuous and complex litigation in this Situation since the filing of the Prosecution's Article 58 Applications on 20 May 2024.¹³

⁸ If Israel decides not to file its briefs, the Prosecution will withdraw these submissions.

⁹ The Appeals Chamber has considered the importance and complexity of issues at stake as constituting "good cause" justifying extension of time: [ICC-01/04-01/06-190 OA3](#), paras. 4-5; [ICC-01/12-01/18-2606 A](#), para. 12 (noting "the factual and legal complexity and the length of the Conviction Decision").

¹⁰ Regulations of the Court, regulation 38(2)(c).

¹¹ [ICC-01/18-354-AnxII-Corr](#); [ICC-01/18-355-AnxI-Corr](#).

¹² The Appeals Chamber has considered workload and court recess as factors constituting "good cause": [ICC-01/12-01/18-2647 A](#), para. 16, [ICC-01/12-01/18-2628 A](#), para. 12, [ICC-01/04-01/06-190 OA3](#), para. 4, [ICC-02/11-01/11-189 OA](#), para. 4, [ICC-02/11-01/11-458-Red OA4](#), para. 6; [ICC-01/12-01/18-2628 A](#), paras. 8 and 14, [ICC-01/04-01/07-115 OA](#), para. 6, [ICC-01/04-01/07-121 OA2](#), paras. 2, 5.

¹³ This includes the filing of over 70 amici curiae briefs, to which the Prosecution responded on 23 August 2024 ([ICC-01/18-346](#)) as well as numerous filings by Israel on several matters including those resulting in the two decisions currently challenged.

11. For these reasons, the Prosecution respectfully submits that there is “good cause” to extend the deadline to respond to the two Appeal Briefs to 20 January 2025.

IV. RELIEF REQUESTED

12. Because of the foregoing, the Prosecution respectfully requests the Appeals Chamber to extend the deadline to respond to Israel’s two Appeal Briefs to 20 January 2025. The Prosecution further requests the Appeals Chamber to urgently rule on this Request before the Court recess.



Karim A.A. Khan KC, Prosecutor

Dated this 13th day of December 2024

At The Hague, The Netherlands