

June 20, 2024

Judicial Panel of ICC Pre-Trial Chamber I Weighing OTP's Gaza Arrest Warrants Application
c/o The Registrar of the International Criminal Court
International Criminal Court
Oude Waalsdorperweg 10
2597 AK, The Hague
THE NETHERLANDS

Request Under Rule 103 for Leave of Court to File the Attached Observations Regarding the Prosecutor's Application for Issuance of Arrest Warrants in Connection with the Gaza/Israel War

Pursuant to International Criminal Court Rule 103, I respectfully request leave of court to file the attached Observations in my personal capacity.

The attached Observations (1) detail what I believe to be strong indications of bias, including but not limited to unfair application of double standards, in the Prosecutor's recent application for the issuance of arrest warrants for the Prime Minister and Defense Minister of Israel for alleged crimes committed in the course of Israel's military response to the October 7, 2023 attacks in Israel by armed Hamas forces, and (2) urge that the three-Judge panel of Pre-Trial Chamber I that is weighing that application obtain answers from the Office of the Prosecutor to questions posed in the Observations regarding the integrity of the process that resulted in the Prosecutor's May 20, 2024 announcement that he is applying for the issuance of the arrest warrants.

Statement of interest, background, and qualifications: I am a citizen of the United States and a resident of the State of Virginia. I retired from the United States Department of Justice (USDOJ) in January 2024 after serving for nearly forty years in that agency, where I led the investigation and prosecution of scores of cases involving a broad range of war criminals and human rights violators, from World War II Nazi criminals to Russian perpetrators of war crimes in Ukraine. My work also included participating in the preparation of responses to requests for assistance received from the ICC Office of the Prosecutor. My positions at USDOJ included, among others, serving as a trial attorney, Deputy Director, and then Director of the Department's former Office of Special Investigations (OSI) and, most recently, pursuant to appointment by United States Attorney General Merrick B. Garland, as the Justice Department's (sole) Counselor for War Crimes Accountability and head of the Department's War Crimes Accountability Team (WarCAT). Based on my USDOJ service, I believe that I have more experience in successfully investigating and prosecuting such cases than has anyone else in world history and that I have demonstrated a longtime and steadfast interest in seeing prosecutorial action to hold the perpetrators of international crimes succeed, including before international tribunals. I am therefore necessarily concerned that any improper conduct in the pursuit of justice in those cases will weaken support for the continuation of such essential efforts.

Respectfully submitted,

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