

Annex

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-
Date: 11 July 2024

PRE-TRIAL CHAMBER I

Before:

**Judge Iulia Motoc, Presiding Judge
Judge Reine Alapini-Gansou, Judge
Judge Nicolas Guillou, Judge**

SITUATION IN THE STATE OF PALESTINE

Public Document

**Request by the Organisation of Islamic Cooperation to file observations to Pre-Trial
Chamber I pursuant to Rule 103 of the Rules of Procedure and Evidence**

Source: The Organisation of Islamic Cooperation

I. Procedural History

1. On 10 June 2024, the United Kingdom ('the UK') filed a request to provide written *amicus curiae* observations under Rule 103(1) of the Rules of Procedure and Evidence ('the Rules') on the International Criminal Court's ('the ICC') jurisdiction in relation to the ongoing investigation in the *Situation in the State of Palestine*.¹
2. On 27 June 2024, the Pre-Trial Chamber I (the 'Chamber') decided to authorize the United Kingdom and others to file written observations (ICC-01/18-173).²
3. In accordance with the decision, and adding to the previous submission by the Organization of Islamic Cooperation (the 'OIC') namely, of 16 March 2020 (ICC-01/18-84)³, the OIC hereby applies for leave to file written observations as *amicus curiae* in accordance with Rule 103 of the Rules and requests its submission be made public.

II. Background

1. The OIC is the second largest intergovernmental organization after the United Nations with a membership of 57 states, including the State of Palestine as a full-fledged member, spread over four continents.
2. The OIC is the collective voice of the Muslim world. It endeavors to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among peoples of the world.
3. The OIC was established upon a decision of the historical summit of Rabat in Kingdom of Morocco, on 25 September 1969 following the criminal arson attack on Al-Aqsa Mosque in occupied East Jerusalem by an Israeli settler.⁴

¹ Request by the United Kingdom for Leave to Submit Written Observations Pursuant to Rule 103, 10 June 2024, ICC-01/18-171-SECRET-Exp.

² Public redacted version of 'Order deciding on the United Kingdom's request to provide observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence, and setting deadlines for any other requests for leave to file *amicus curiae* observations', 27 June 2024, ICC-01/18, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2020_01031.PDF

³ Observations of the Organisation of Islamic Cooperation in relation to the proceedings in the Situation in Palestine, 16 March 2020, ICC-01/18, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2020_01031.PDF

⁴ Declaration of the Rabat Islamic Summit Conference, First Islamic Conference, Rabat, 25 September 1969, <https://www.oic-oci.org/archive/english/conf/is/1/DecReport-1st%20IS.htm>

4. Palestine has been and remains a standing core issue on the agenda of OIC. The Charter of the OIC encourages Member States to adhere to their commitments to the principles of the United Nations Charter and international law; to preserve Islamic values of peace, justice, and human dignity; to respect, safeguard, and defend the self-determination, sovereignty, and territorial integrity of all Member States; and to 'support the struggle of the Palestinian people, who are presently under foreign occupation, and to empower them to attain their inalienable rights, including right to self-determination'.⁵
5. In its efforts to concretize and institutionalize the Islamic world's vision and role as to what it could offer - at the Islamic States' level - for the benefit of the cause of Palestine and Al Quds Al Sharif/ Jerusalem, the OIC has been consistent in reaffirming the inalienable rights of the Palestinian people and calling for a peaceful resolution to the Question of Palestine, as envisaged in the 290 relevant OIC Resolutions and pronouncements on Palestine, in accordance with international law and UN Resolutions, as well as the written⁶ and oral⁷ statements made by the OIC before the International Court of Justice for its advisory proceedings.
6. In congruence, the OIC Council of Foreign Ministers mandated a department within the OIC General Secretariat dedicated to Palestine and Al Quds Al Sharif/Jerusalem, to focus on several objectives including upholding international legitimacy, OIC's decisions and its role within political, human rights-driven, and legal frameworks in any action process at the international level concerning Al Quds/Jerusalem.
7. The OIC aims at exerting every effort to achieve a peaceful solution to the Question of Palestine through implementing UN Resolutions that call on Israel to end its occupation of the Palestinian territory occupied since 1967, which comprises of the West Bank, including East Jerusalem, and the Gaza Strip, and extending active support for the Palestinian people's right to self-determination and to achieve their

⁵ Charter of the Islamic Conference, Adopted by the Third Islamic Conference of Foreign Ministers at Jeddah, 28 February 1973, revised at Dakar on 14 March 2008, https://www.oic-oci.org/upload/documents/charter/en/oic_charter_2018_en.pdf

⁶ Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem (Request for an Advisory Opinion), Written Statement of the Organisation of Islamic Cooperation, July 2023, <https://www.icj-cij.org/sites/default/files/case-related/186/186-20230724-wri-13-00-en.pdf>

⁷ Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem (Request for an Advisory Opinion), Public Sitting Verbatim Record, International Court of Justice, CR2024/13, 26 February 2024. <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240226-ora-wri-01-00-bi.pdf>

independence from occupation.

8. In May 2024, the 15th Session of the OIC adopted the Banjul Declaration, “Enhancing Unity and Solidarity through Dialogue for Sustainable Development” in The Gambia, the Members reaffirmed their commitment to the principles enshrined in the United Nations Charter and to International Law and underscored the importance of an inclusive and balanced multilateralism to contribute to international peace, security, justice, and sustainable development, and to promote dialogue among civilizations, cultures and religions, friendly relations and good neighbourliness, mutual respect and cooperation. Similarly the Members confirmed full solidarity with the Palestinian People in their struggle to free themselves from foreign occupation and colonization and warned of the danger of continuing the crime of genocide and ethnic cleansing, including starvation, deprivation of water, and preventing entry of fuel, which led to a genuine disaster for all health and humanitarian sectors.⁸
9. Moreover, in the resolution on “The issue of Palestine and Al-Quds Ash-Sharif”, Members reaffirmed the centrality of the Palestine caused, denounced Israeli crimes against the defenseless Palestinian people, condemned Israel’s genocide against the Palestinian people, and stressed the responsibility of the international community to hold Israel accountable for its crimes. Members also called for an immediate investigation into Israeli crimes by stating their;

“Support the legal measures taken by the State of Palestine, supported by the Member States, in confronting the policies of the Israeli colonial occupation, affirms its right to confront the intransigence of the Israeli occupation and the continuation of its crimes against the Palestinian people, including turning to international courts, including the ICC, to decide on the illegality of the existence of occupation on the land of the State of Palestine, and calls on the OIC Member States and the General Secretariat to support these actions by all possible means. Urges the ICC Prosecutor for the speedy completion of the criminal investigation into war crimes and crimes against humanity being committed by officials of the Israeli colonial occupation government against the defenseless Palestinian people and to bring the criminals to international justice and calls on the OIC Member States and the General Secretariat to provide the necessary technical and financial support to the State of Palestine in this field, including supporting the move

⁸ Banjul Declaration, Adopted by the 15 Session of the Islamic Summit Conference (Session of “Enhancing Unity and Solidarity Through Dialogue for Sustainable Development”), Banjul, 4 & 5 May 2024, OIC/SUM-15/2024/DEC.FINAL, <https://new.oic-oci.org/Lists/ConferenceDocuments/Attachments/2630/Banjul%20Declaration%20Final.pdf>

to universal jurisdiction to confront the crimes of the occupation and hold perpetrators accountable; and Thanks South Africa, Comoros, Djibouti, Bolivia, Bangladesh, Chile and Mexico for referring the situation in the State of Palestine to the International Criminal Court.”⁹

10. For these reasons, the OIC believes that its input would be beneficial to the Chamber.

III. The Request by the United Kingdom

11. The OIC deplores the positions of some countries that apply double standards and support the brutal aggression against the Palestinian people, granting the Israeli occupation immunity and providing it with impunity, and affirms that these positions are inconsistent with international law and will only increase the cycle of violence and destruction, fuel extremism, and escalate the conflict in the region, and further subjugate the Palestinian people to international crimes that fall under the jurisdiction of the International Criminal Court.

12. The OIC regrets the re-litigation by the UK, which aims to delay justice for the Palestinian people for Israeli crimes and undermine the international law based on order with the ICC at its center. The OIC cannot but take note of the fact that this action by the UK also coincides with attempts to undermine the Court and to prevent it from fulfilling its mandate in the Situation in Palestine as well.¹⁰

13. The OIC reiterates its position that the ICC must be able to play its role in ensuring justice for all victims of international crimes under the jurisdiction of the Rome Statute, without fear or favor, and equally across all situations. The OIC also regrets the continued attacks and targeting of the ICC, its officials, and those cooperating with it and calls for respect for the impartiality and independence of the ICC.

IV. Submission

14. If granted leave, the OIC will demonstrate that the Interim 'Oslo Accords', which were designed to last five years, present no obstacle to Palestine's competence to delegate the prosecution of international crimes to the ICC. The OIC will argue that

⁹ Resolution on the issue of Palestine and Al-Quds Ash-Sharif, Adopted by the 15 Session of the Islamic Summit Conference, NO. 1/15- (PAL(IS)), Banjul, 5 May 2024, <https://www.un.org/unispal/document/resolution-on-the-issue-of-palestine-and-al-quds-ash-sharif-adopted-by-the-15th-session-of-the-islamic-summit-conference/>

¹⁰ Statement by the Presidency of the Assembly of States Parties in support of the independence and impartiality of the International Criminal Court, 17 May 2024, <https://www.icc-cpi.int/news/statement-presidency-assembly-states-parties-support-independence-and-impartiality>

the Interim 'Oslo Accords' did not change the status of the territory, undermine Palestinian sovereignty over it, nor recognize Israeli sovereignty over any part of it. It has no bearing on the interpretation of the terms of the Rome Statute.

15. To uphold the objection by the UK, the OIC will argue that it, would run counter to the object and purpose of the Rome Statute, set out in the paragraphs 4-6 of the Preamble, which emphasize that international crimes should not go unpunished. This is a fundamental rule of treaty interpretation.

16. The OIC will also argue that the State of Palestine itself is not only allowed to exercise jurisdiction over such crimes committed within its territory but, under customary international law, is obliged to do so. The Rome Statute in Paragraph 10 of the Preamble, confirms this by recalling “that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.”¹¹

V. Conclusion

The OIC is certain that its submission will assist the ICC in bringing long awaited justice to the Palestinian People, thus serving the cause of peace.



Samir Diab
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Organisation of Islamic Cooperation

Signed on 11 July 2024
At Jeddah, Kingdom of Saudi Arabia

¹¹ See Preamble of the Rome Statute of the International Criminal Court, Rome, 17 July 1998.