

Situation in the State of Palestine

Annex

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/18
Date: 11 July 2024

PRE-TRIAL CHAMBER I

Before: Judge Iulia Motoc , Presiding Judge
Judge Nicolas Guillou
Judge Reine Alapini-Gansou

SITUATION IN PALESTINE

Public Document

**Request by Hungary for Leave to Submit Written Observations Pursuant to Rule
103 of the Rules of Procedure**

Source: Hungary

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

The Office of the Prosecutor

Counsel for the Defence



Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr. Zavala Giler, Osvaldo

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

As a long-standing supporter of the International Criminal Court (the 'Court'), Hungary has always been dedicated to the objectives of the Rome Statute (the 'Statute') and the fight against impunity.

Pursuant to Rule 103(1) of the Rules of Procedure and Evidence "[a]t any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate".

It also should be noted that in case *ICC-01/18* Pre-Trial Chamber I of the Court issued a decision on the '*Request by the United Kingdom for leave to submit written observations pursuant to Rule 103*' in which it authorised the United Kingdom to file written observations pursuant to Rule 103 of the Rules of Procedure and Evidence by 12 July 2024. While pointing out that its decision must not be understood as an open call for *amicus curiae* submissions, the Chamber acknowledged that its decision to grant the United Kingdom's request may result in other States submitting observations. Therefore, the Chamber set a deadline for any other requests for 12 July 2024.

In light of the above, Hungary hereby seeks leave to submit *amicus curiae* observations in case *ICC-01/18* as follows.

II. Summary of Observations

II.1. Hungary is aware that it has been the consistent jurisprudence of the Court that it is fully within the Court's discretion to decide on a *case-by-case* basis whether or not to grant leave to *amicus curiae* requests. In addition, it is also known that in its decision regarding the request of the United Kingdom, the Court acknowledged that its

decision may lead to other requests. Having regard to the aforesaid, Hungary is confident that the *amicus curiae* request will be granted for the following reasons.

Pre-Trial Chamber I did not determine in its ruling the jurisdictional issues relating to the Oslo Accords. It held that the Chamber will be in a position to examine further questions of jurisdiction only when the Prosecutor submits an application for the issuance of a warrant of arrest or summons to appear under Article 58 of the Statute. Consequently, this question is a live matter before Pre-Trial Chamber I when deciding on the above-mentioned applications for warrants.

It should be emphasised that even according to the majority opinion of the said decision of Pre-Trial Chamber I, there remain serious doubts as to whether – and, if so, to what extent – the Court has jurisdiction in Palestine. Since the Prosecutor has submitted applications for the issuance of such warrants, Hungary believes that the Chamber is now in a position to determine the above-mentioned question of jurisdiction.

II.2. Hungary believes that the question of jurisdiction is of utmost significance, given the issuance of an arrest warrant would affect the liberty of the individuals concerned. As pointed out in the Prosecutor's requests, even the Prosecutor considers the legal and factual framework to be complex in this case. In view of this, Hungary is of the opinion that in the course of assessing the question of jurisdiction, the Chamber should avail of the possibility to seek the observations of a range of participants, rather than just deciding on the basis of the Prosecutor's application.

It should also be noted that though Pre-Trial Chamber I previously permitted written observations – including from Hungary – to be submitted pursuant to Rule 103 including on the Oslo Accords issue, in our view it is no longer sufficient to primarily rely upon those observations since the factual position has changed since those prior observations were submitted. Matters of complementarity are at issue as well.

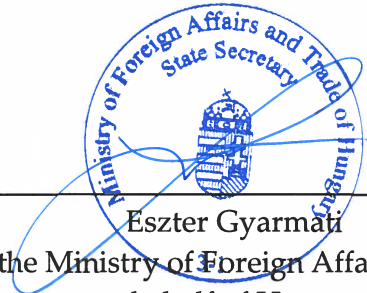
II.3. Article 19 of the Statute clearly states that "[t]he Court shall satisfy itself that it has jurisdiction in any case brought before it". Hungary, thus believes that the determination of jurisdiction is an essential prerequisite to deciding on the application for arrest warrants.

Hungary also holds that the key question with respect to the jurisdiction of the Court is whether Palestine can be considered as a State for the purposes of Article 12 of the Statute. Article 12 of the Statute requires a State to lodge a declaration accepting the jurisdiction of the Court. Hungary is firmly convinced that Article 12 cannot be applied without Palestine being legally recognised as a State, and this matter must be addressed in accordance with Article 21 of the Statute and other relevant factors.

II.4. If Hungary's request is granted, Hungary would seek to assist the Court in the proper determination of the jurisdiction of the Court in the case, as well as of the way in which the fundamental principle of complementarity may be in play in the present case.

III. For the reasons elaborated above, Hungary requests for leave to submit written observations pursuant to Rule 103 on the issues identified above.

Respectfully submitted,



Eszter Gyarmati
State Secretary of the Ministry of Foreign Affairs and Trade of Hungary
on behalf of Hungary

Dated this 11 July, 2024

At Budapest, Hungary