

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 THE STATE OF PALESTINE

Public

**Request by The Arab Organisation for Human Rights UK (AOHR UK) for
Leave to Submit Written Observations Pursuant to Rule 103**

Source: The Arab Organisation for Human Rights UK (AOHR UK)

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

I. Introduction

1. On 10 June 2024, the United Kingdom filed a Request for leave to submit *amicus curiae* written observations under Rule 103(1) of the Rules of Procedure and Evidence (the 'Rules'), on "[w]hether the Court can exercise jurisdiction over Israeli nationals", given what it describes as "circumstances where Palestine cannot exercise criminal jurisdiction over Israeli nationals pursuant to the Oslo Accords" (the 'United Kingdom Request').¹
2. Rule 103(1) of the Rules stipulates that "[a]t any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case [...] grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate."²
3. On 27 June 2024, the Chamber issued an Order in response to the United Kingdom Request (the 'Order of 27 June 2024').³ The Chamber granted the United Kingdom leave pursuant to its request, and instructed the United Kingdom to file its written observations by 12 July 2024.⁴ It also indicated that other requests for leave to submit *amicus curiae* written observations, if any, shall also be filed by 12 July 2024.⁵ On 4 July 2024 the Chamber granted the United Kingdom an extension to the deadline for it to file its written observations, to 26 July 2024.⁶
4. The AOHR UK respectfully requests permission for leave to submit *amicus curiae* written observations pursuant to Rule 103 of the Rules, on the issue of the relevance of the Oslo Accords to the question of whether the Court can exercise jurisdiction over Israeli nationals.

¹ Request by the United Kingdom for Leave to Submit Written Observations Pursuant to Rule 103, ICC-01/18171-SECRET-Exp-Anx (reclassified as public on 27 June 2024, ICC-01/18-171-Anx), para. 27.i.

² Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002, ICC-ASP/1/3 and Corr.1, part II.A., Rule 103.

³ 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, ICC-01/18-173-SECRET (a public redacted version was issued on the same date, ICC-01/18-173Red) ('Order of 27 June 2024')

⁴ Order of 27 June 2024, para. 5.

⁵ Order of 27 June 2024, para. 6.

⁶ Decision on the 'Request by the United Kingdom for Extension of Time Limit,' ICC-01/18-178, 4 July 2024.

II. The Arab Organisation for Human Rights UK (AOHR UK)—Background, Interest and Expertise

5. The AOHR UK, established in 2013, is a human rights NGO dedicated to defending the rights of people in the Arab world. It operates independently and impartially, without affiliation to any other organization, or government, either within the Arab world or internationally. The organisation documents the violations individuals endure and amplifies their voices to reach decision-makers. It also collaborates with a network of lawyers, human rights organisations, and activists across the Arab world. Given the severe violations faced by the Palestinian people, the AOHR UK has had a particular focus on uncovering, documenting, publicizing, and follow-up on these violations. It seeks justice for victims, and an end to impunity for those responsible for these violations. It aims through its work to end the occupation, assisting the Palestinian people in self-determination and establishing their state in accordance with international law. The AOHR has engaged on the subject of violations of the human rights of the Palestinian people with the UN Secretary-General, UN Special Rapporteurs, the UN Human Rights Council, and relevant States. It has hosted webinars to shed light on these violations, featuring experts, high-level officials and members of civil society. The AOHR UK has, through its lawyers, transmitted information to the Office of the Prosecutor of the present Court relating to the situation in the State of Palestine, most recently a communication concerning attacks on Al-Aqsa Mosque. Legal memorandums have also been submitted to various States, emphasizing their obligations in light of the ongoing genocide in Gaza and the necessity of supporting and participating in litigation at the International Court of Justice. The organisation has also gathered testimonies from West Bank citizens who suffered violations by settlers and lodged requests with the United Kingdom Foreign, Commonwealth and Development Office and the European Union, invoking the Magnitsky Act to impose sanctions on Israeli officials.
6. Bearing in mind the foregoing, the AOHR UK has a direct interest in, and well-established expertise relating to, the Situation in the State of Palestine, as a general matter, and as concerns the issue that is the subject of the present request.

III. Intended scope of observations

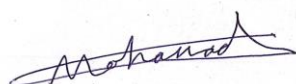
7. On the issue of the relevance of the Oslo Accords to the question of whether the Court can exercise jurisdiction over Israeli nationals, the AOHR UK's observations would seek to assist the Court in the proper determination of the relevance to the scope of the Court's jurisdiction of the scope of the national jurisdiction of a State party, when that State being a party to the ICC Statute is the basis for the Court's jurisdiction with respect to a situation taking place in its territory. In particular, it would address the following issues:

- a. The Court's jurisdiction being based on certain forms of agreement by certain states given to the Court to perform this function (and/or the Security Council making a referral) not the delegation by States of their own national jurisdictional entitlements to the Court.
- b. The consequential irrelevance of any limitations in the national jurisdictional entitlement of a State to the scope of the Court's jurisdiction, when the latter jurisdiction is based on the State, as the State on the territory of which the relevant conduct occurred, being a party to the ICC Statute.
- c. Applying the foregoing, the irrelevance of any jurisdictional limitations in the exercise of its territorial jurisdiction on the part of the State of Palestine, including those ostensibly based on the Oslo Accords, to the question of the scope of the Court's jurisdiction with respect to Palestine, when that jurisdiction is based on the State of Palestine, as the State on the territory of which the relevant conduct occurred, being a party to the ICC Statute.
- d. The consequential irrelevance of the Oslo Accords to the question of whether the Court can exercise jurisdiction over Israeli nationals with respect to the situation taking place in the territory of the State of Palestine.

IV. Relief requested

8. The AOHR UK respectfully requests permission for leave to submit *amicus curiae* written observations pursuant to Rule 103 of the Rules, on the issue of the relevance of the Oslo Accords to the question of whether the Court can exercise jurisdiction over Israeli nationals. This request is prompted by the Chamber's Order of 27 June 2024. It is made on the basis of the aforementioned indication in that Order anticipating the possibility that requests for leave to submit *amicus curiae* written observations pursuant to Rule 103 may arise in consequence of the United Kingdom Request and the Chamber's decision to grant it. It is not, however, contingent on the United Kingdom continuing with its intention to submit written observations pursuant to its Request. If, therefore, the United Kingdom indicates, in whatever form, a decision not to submit written observations pursuant to its Request, and/or fails to file written observations by the deadline stipulated by the Chamber (whether the deadline of 26 July 2024 or any other deadline adopted by the Chamber subsequent to the filing of the present request), the present request still stands.

Respectfully submitted,



Mohammed Jamil

Director

Arab Organisation for Human Rights UK

Dated 11 July 2024

London, United Kingdom