

Annex

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/18
Date: 12 July 2024

PRE-TRIAL CHAMBER I

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

SITUATION IN THE STATE OF PALESTINE

Secret

**Request by the Czech Republic for Leave to Submit Written Observations Pursant
to Rule 103**

Source: Czech Republic

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

I) INTRODUCTION

- 1) In its decision on the “Prosecution request pursuant to article 19(3) of the Rome Statute for a ruling on the Court’s territorial jurisdiction in Palestine” of 5 February 2021, the Pre-Trial Chamber I emphasised that the Chamber’s conclusions pertained “to the current stage of proceedings, namely the initiation of an investigation pursuant to articles 13(a), 14 and 53(1) of the Statute. When the Prosecutor submits an application for the issuance of a warrant of arrest or summons to appear under article 58 of the Statute, or if a State or a suspect submits a challenge under article 19(2) of the Statute, the Chamber will be in a position to examine further questions of jurisdiction which may arise at the point in time”¹.
- 2) The Czech Republic uses this opportunity to recall its written observations of 12 March 2020 ² in which it, *inter alia*, briefly addressed the issue of the question of criminal jurisdiction on the occupied Palestinian territories. The Pre-Trial Chamber I, however, in its decision of February 2021 found that “the arguments regarding the Oslo Agreements in the context of the present proceedings are not pertinent to the resolution of the issue under consideration, namely the scope of Court’s territorial jurisdiction in Palestine”³.
- 3) Since the Prosecutor has now submitted applications for the issuance of warrants of arrest under article 58, the Czech Republic respectfully seeks leave pursuant to Rule 103(1) of the Rules of Procedure and Evidence to submit written observations on jurisdictional issues resulting from the Oslo Accords, in particular concerning the relationship between the Oslo Accords and the jurisdiction of the Court. This Request is also made pursuant to the Order

¹ ICC-01/18-143, Pre-Trial Chamber I, Decision on the „Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine, 5 February 2021 (Pre-Trial Chamber I Decision of 2021), para. 131.

² ICC-01/18-69, Submission of Observations Pursuant to Rule 103 (Czech Republic), para. 10 – 13.

³ Pre-Trial Chamber I Decision of 2021, para. 129.

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, in which the Chamber set the deadline for any other requests for leave to make observations under Rule 103 of the Rules for 12 July 2024.

- 4) The Czech Republic kindly asks that this Request is re-classified as public. The content of this Request does not require its classification as secret as it does not deal with any aspect that would justify confidentiality treatment. The purpose of this Request is to explain what will be the focus of the written observation, if permitted.

II) SUMMARY OF OBSERVATIONS

- 5) In its written observations of March 2020, the Czech Republic did not detail the issue of jurisdiction with respect to the interpretation of relevant provisions of Oslo Accords and Protocol Concerning Legal Affairs to the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip (signed on 28 September 1995). Nevertheless, it expressed its view on the challenges to the exercise of the Court's jurisdiction over Israeli nationals due to the legal framework of the Oslo Accords. The Czech Republic is of the view, and in this respect concurs with the decision of the Pre-Trial Chamber I of February 2021, that the Chamber should now "be in a position to examine further questions of jurisdiction which may arise at the point in time"⁴.
- 6) Simultaneously, the aspect of judicial and procedural economy requires the examination of the jurisdictional questions at the earliest opportunity. The Pre-Trial Chamber I touched upon the relevance of Part 9 (International

⁴ Ibid, para. 131.

Cooperation and Judicial Assistance) of the Statute when noted its articles 97 and 98⁵. The issue of cooperation with the Court is highly relevant at this stage, namely when the application for the issuance of warrants of arrest has been submitted. Should the warrants of arrest be issued, the States Parties will be, in line with the relevant provisions of the Statute, legally bound to cooperate with the Court. The same jurisdictional questions will have to be addressed with respect to articles 97 and 98 of the Statute. As mentioned in the dissenting opinion: "... without cooperation of the directly interested States in the present and truly complicated, over-politized situation, the Prosecution will have no real chance of preparing a trial-ready case or cases" ⁶.

- 7) The application for the issuance of the warrants of arrest marks a significant procedural step in the investigation. Should the arrest warrants be issued, it will indispensably affect the liberty of the person in question. This serious consequence requires that observations on appropriate issues should be considered desirable for the proper determination of the case, in line with Rule 103(1) of the Rules of Procedure and Evidence.
- 8) Therefore, the Czech Republic respectfully requests the Chamber to grant leave to submit written observations as *amicus curiae* on the matters stated above. At the same time, the Czech Republic further requests that this document be re-classified as public.



Emil Ruffer, Director of International Law Department
Ministry of Foreign Affairs of the Czech Republic

Dated this 12th July 2024
At Prague, Czech Republic

⁵ Ibid, para. 127.

⁶ ICC-01/18-143-Anx1, Judge Péter Kovács' Partly Dissenting Opinion, para. 378.

