

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

Public Document

**Request for Leave to File Amicus Curiae Submission Pursuant to Rule 103 of the Rules
of Procedure and Evidence**

Source: ICJ Norway and Defend International Law

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

1. Pursuant to Rule 103 of the ICC Rules of Procedure and Evidence, the Norwegian civil society associations *Defend International Law* (Forsvar folkeretten) and *ICJ Norway* (ICJ Norge, the Norwegian section of International Commission of Jurists), hereafter “the Applicants”, respectfully request leave to file an *amicus curiae* submission regarding Pre-Trial Chamber I’s (“the Chamber”) consideration of the issue “[w]hether the Court can exercise jurisdiction over Israeli nationals, in circumstances where Palestine cannot exercise criminal jurisdiction over Israeli nationals pursuant to the Oslo Accords.”¹
2. The Applicants – represented by a group of Norway-based law professors, international law experts, and experienced international attorneys – are uniquely qualified and well-positioned to submit observations to the Chamber regarding the abovementioned question. Their areas of expertise range from public international law to international criminal law, human rights law, and humanitarian law. Collectively, they have decades of experience working on matters of justice and accountability, and in representing victims of human rights abuses before international courts and United Nations mechanisms. The Applicants consist of lawyers and academics with expertise on international law, including international law related to the State of Palestine, in that respect also the Oslo Accords.
3. The Applicants have filed national and international amici briefs and submissions before Norwegian Courts and other authorities, including the the Norwegian Supreme Court and the International Criminal Court, including in relation to the Situation in the State of Palestine. On behalf of a number of victims of the war on Gaza, The Applicants have, *inter alia* made a substantial legal submission before the National Authority for Prosecution of Organised and Other Serious Crime in Norway, reporting three representatives of the Israeli war cabinet for crimes of humanity and genocide.
4. The Applicants note that on 5 February 2021, the Chamber issued a decision, in response to the “Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine,”² affirming that “the Court’s territorial jurisdiction in the *Situation in Palestine* extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.”³ The Chamber further 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 the Court’s territorial jurisdiction in Palestine.”⁴
5. Should they be granted leave, the Applicants intend to submit *amicus curiae* observations based on rigorous legal analysis, emphasizing that:
 - a) The Court *has jurisdiction* and may issue arrest warrants, based on the evidence, for all conduct that has occurred on the territory of the State of Palestine, a State

¹ ICC-01/18-173-Red, Pre-Trial Chamber I, *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, public, para. 5.

² ICC-01/18-12.

³ ICC-01/18-143, Para 118.

⁴ *Id.* at para. 129.

Party, irrespective of bilateral agreements, internal law or the nationality of the alleged perpetrators of this conduct.

- b) The Oslo Accords *do not limit or bar* the exercise of the Court's jurisdiction over Israeli nationals i.e., on the following grounds:
1. The State of Palestine has never been a party to the Oslo Accords
 2. The Oslo Accords are for several reasons wholly or partly void
 6. The Applicants intend for their submission to assist the Chamber in its assessment of the present issue in order to properly make a final determination that would ensure that appropriate accountability mechanisms are discharged, and that perpetrators of international crimes are brought to justice.
 7. Because of the urgency of the current applications for arrest warrants relating to the indicted leaders of both Hamas and Israel, ICJ Norway and Defend International Law are prepared to act within a short deadline if the request would be granted.

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Terje Einarsen

Kjell M Brygfeld

On behalf of and as chairpersons of
ICJ Norway and Defend International Law

Dated this **12 of July 2024**
At Stavanger/Bergen Norway