

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
Judge Nicolas Guillou, Judge**

SITUATION IN THE STATE OF PALESTINE

Public

**Request by the League of Arab States for Leave to Submit Written Observations
Pursuant to Rule 103**

Source: The League of Arab States

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

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.

4. The League of Arab States ('the League') respectfully requests permission for leave to submit *amicus curiae* written observations on the issue of the relevance of the Oslo Accords to the question of whether the Court can exercise jurisdiction over Israeli nationals. The League further respectfully requests that its submission, if leave is granted, be made public.
5. The League of Arab States regrets that the politicization of the work of the Court and the application of double standards towards the Palestinian people for over 76 years. The League reiterates its positions that the Court's independence and impartiality must be respected and protected.
6. The request by the United Kingdom comes at a time when Israel, the occupying Power, is, through its individual human agents, committing the worst atrocities, constituting serious violations of fundamental rules of international law, in modern history against a defenseless, occupied people whose right to self-determination has been denied, deferred, and dismissed for over a century. The submission by the United Kingdom, whose historical responsibility towards the Palestinian people is yet to be acknowledged, undermines the objective of the Court and so the object and purpose of the Rome Statute creating it: international crimes must not go unpunished—there should be no impunity.

II. The League of Arab States—Background, Interest and Expertise

7. The League is a regional organization based in Cairo. It was established on 22 March 1945, and currently comprises 22 member States across the Middle East and North Africa: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Yemen, and the United Arab Emirates.
8. The League has as its purpose the strengthening of the relations between the member-States; the coordination of their policies in order to deepen cooperation between them

and to safeguard their independence and sovereignty; and a general concern with the affairs and interests of Arab States.⁷

9. The League has played a leading role in the development of international law as it relates to the Question of Palestine. It continues to be actively involved in finding a peaceful solution, based on international law, including Resolutions of the United Nations, including before the International Court of Justice.⁸
10. The League has also engaged directly in negotiating a peace plan between Israel and the State of Palestine through implementing United Nations Resolutions which call on Israel to end its occupation of the Palestinian territory occupied since 1967, which comprises the West Bank, including East Jerusalem, and the Gaza Strip.⁹
11. The League has been consistent in its position that the absence of accountability for Israel's violations of international law, and the associated violations of international criminal law by individual Israelis, has made peace more elusive. Without accountability, and its potential for deterrence, the region and indeed the world will continue to be deprived of peace. Therefore, the League respectfully submits that it is essential that the Court abide by and uphold both the letter and the object and purpose of its founding Statute. Impunity can only serve to foster criminality.
12. Throughout the course of the foregoing activities, the League has acquired substantial expertise on the matter at hand before the Court. Moreover, upon invitation by the Court, in March 2020 the League made a submission on the "Prosecution request

⁷ League of Arab States, Charter of the Arab League, 22 March 1945 (Article II).

⁸ See: Written submission by the League of Arab States on the Request for Advisory Opinion by the General Assembly before the International Court of Justice on the '*Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*', 20 July 2023, Available at: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20230724-wri-10-00-en.pdf> ; Written comments on the written statements by States and organizations on the Request for Advisory Opinion by the General Assembly before the International Court of Justice on the '*Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*', 25 October 2023, Available at: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20231025-wri-08-00-en.pdf> ; and Oral statement by the representative of the League of Arab States before the International Court of Justice on the Request for Advisory Opinion by the General Assembly before the International Court of Justice on the '*Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*', 26 February 2024, Available at: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240226-ora-wri-01-00-bi.pdf>.

⁹ The Council of the League of Arab States, The Arab Peace Initiative, 28 March 2002, Available at: <https://www.un.org/unispal/document/auto-insert-181223/>.

pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine' (ICC-01/18-122)¹⁰ demonstrating that the Court's territorial jurisdiction extends over the West Bank, including East Jerusalem, and the Gaza Strip, as this comprises the territory of the State of Palestine. The League also argued that the Palestinian People, as represented by the State of Palestine, remains sovereign over the territory of the State. As a result, the State of Palestine is exclusively entitled to determine and take decisions on any matters relating to the conduct of internal affairs, and external relations. It is within this capacity that the State of Palestine became a member of the League and many other international organizations.

13. Bearing in mind the foregoing, the League 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

14. On the issue of the relevance of the Oslo Accords to the question of whether the Court can exercise jurisdiction over Israeli nationals, the League's observations would seek to assist the Court in the proper determination of two issues.
15. In the first place, the League would explain the legal validity of the relevant provisions of the Oslo Accords. In particular, it would address the following issues:
- a. The illegality of Israel's use of force over the Palestinian territory since 1967 in the *jus ad bellum*, and the consequential legal character of the Oslo Accords as agreements procured by Israel through the use of illegal force.
 - b. The legal consequences of the aforementioned legal character of the Oslo Accords for the question of legal validity, as a general matter, and as regards

¹⁰ League of Arab States, Request for Leave to Submit Observations with respect to the Situation in the State of Palestine, ICC-01/18-55-Cor. T, 16 February 2020; League of Arab States, Submission of the Observations of League of Arab States relative to the situation in Palestine, ICC-01/18-122, 16 March 2020.

provisions concerning the exercise of Palestinian jurisdiction over Israeli nationals in particular.

- c. The contradiction between provisions in the Oslo Accords purporting to bar the exercise of Palestinian jurisdiction over Israeli nationals, and other, including peremptory, norms of international law (including occupation law), and the legal consequences of this for the legal validity of such provisions.

16. In the second place, the League would explain 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

17. The League 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,



Abdelhamid REMITA
Chargé d'affaires a.i.
Permanent Mission of the League of Arab States in Brussels

12 July 2024, Brussels