

# Annex

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



*Original: English*

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

**PRE-TRIAL CHAMBER I**

**Before:** Judge Iulia Antoanella Motoc, Presiding Judge  
Judge Reine Adélaïde Sophie 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:** University Network for Human Rights  
International Human Rights Clinic, Boston University School of Law  
International Human Rights Clinic, Cornell Law School  
Lowenstein Human Rights Project, Yale Law School

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

|                                                     |                                                                |
|-----------------------------------------------------|----------------------------------------------------------------|
| <b>The Office of the Prosecutor</b><br><div></div>  | <b>Counsel for the Defence</b>                                 |
| <b>Legal Representatives of the Victims</b>         | <b>Legal Representatives of the Applicants</b>                 |
| <b>Unrepresented Victims</b>                        | <b>Unrepresented Applicants<br/>(Participation/Reparation)</b> |
| <b>The Office of Public Counsel for<br/>Victims</b> | <b>The Office of Public Counsel for the<br/>Defence</b>        |
| <b>States' Representatives</b>                      | <b>Amicus Curiae</b>                                           |

REGISTRY

|                                                          |                                |
|----------------------------------------------------------|--------------------------------|
| <b>Registrar</b><br>M. Zavala Giler, Osvaldo             | <b>Counsel Support Section</b> |
| <b>Victims and Witnesses Unit</b>                        | <b>Detention Section</b>       |
| <b>Victims Participation and Reparations<br/>Section</b> | <b>Other</b>                   |

1. Pursuant to Rule 103 of the ICC Rules of Procedure and Evidence, the University Network for Human Rights, the International Human Rights Clinic at Boston University School of Law, the International Human Rights Clinic at Cornell Law School, and the Yale Law School Lowenstein Human Rights Project (“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.”<sup>1</sup>
2. The Applicants – represented by a group of United States-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. They have filed numerous amici briefs and submissions before United States courts, including the U.S. Supreme Court, the International Court of Justice, and the International Criminal Court, including in relation to the situation in Palestine.
3. 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,”<sup>2</sup> 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.”<sup>3</sup> 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

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<sup>1</sup> 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, para. 5.

<sup>2</sup> ICC-01/18-12, Office of the Prosecutor, *Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine*, 22 January 2020, and Annex A, ICC-01/18-12-AnxA.

<sup>3</sup> 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, para. 118.

the issue under consideration, namely the scope of the Court's territorial jurisdiction in Palestine."<sup>4</sup>

4. Should they be granted leave, the Applicants intend to submit *amicus curiae* observations based on rigorous legal analysis, emphasizing that:
  - a) The Court is able to exercise jurisdiction and may issue arrest warrants, based on the evidence, for all conduct that has occurred in the territory of Palestine, a State Party, irrespective of 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.
5. 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.

Respectfully submitted,

*Salma Waheedi*

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Salma M. Waheedi, Attorney at Law  
on behalf of the aforementioned Applicants

Dated this Friday, 12 July 2024

At London, United Kingdom

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<sup>4</sup> *Id.* at para. 129.