

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

**Request by Spain for leave to submit written observations pursuant to Rule 103(1)
of the Rules of Procedure & Evidence**

Source: Kingdom of Spain

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 Kingdom of Spain	Amicus Curiae

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

Introduction

On 10 June 2024, the United Kingdom filed a request to provide written amicus curiae observations on '[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'. The United Kingdom considers that the Oslo Accords can directly affect the Prosecutor's application for arrest warrants announced on 20 May 2024, which included two Israeli nationals.

By Order of 27 June 2024, the Pre-trial Chamber I of the International Criminal Court (the "Court") authorized the United Kingdom to file written observations pursuant to Rule 103 of the Rules of Procedure and Evidence. Additionally, the Chamber authorized other States, organizations or persons to request for leave to file amicus curiae observations, stating that such observations shall be filed by 12 July 2024.

Spain's interest in these proceedings

Spain has been a firm supporter of the International Criminal Court since its creation. It was one of the first countries to ratify the Rome Statute, on 24 October 2000. As a country with a strong focus on the rights and status of the victims, Spain is fully committed to the ICC's role in fighting against impunity and in providing justice and reparation for all victims of international crimes. Spain strongly believes in international law and in the pivotal role of the Court as a cornerstone of a rules-based international order; it supports its independence and impartiality and demands compliance with international law in all contexts.

Spain is interested in submitting its observations on whether the Court can exercise jurisdiction over Israeli nationals, on the relevance of the principle of complementarity, and on the interpretation of the Oslo Accords in the light of the relevant provisions of the Statute, on the understanding that the correct determination of the Court's jurisdiction is the most solid guarantee for the proper administration of justice.

Submissions

In its Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine'¹, the Chamber confirmed the ICC's jurisdiction despite the fact that some victims and amici curiae (paragraphs 37-48 and 39-53) challenged it on the basis of the Oslo Accords. The Chamber established that the Oslo Accords had no bearing on the Court's territorial jurisdiction, at least at that initial stage of the proceedings, namely the opening of an investigation by the Prosecutor pursuant to Articles 13(a), 14 and 53(1) of the Statute (paragraph 131). The Chamber's decision was accompanied by an individual opinion signed by Judge Kovacs in which he argued that consideration of the Oslo Accords was relevant². The Chamber indicated that it would return to the question of the Court's jurisdiction "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" (paragraph 131).

Spain considers that its participation, as well as the participation of other States and stakeholders at this point of the proceedings, will provide additional elements of interpretation for the Court to establish its jurisdiction in this matter, an issue of great importance for the parties and for the fairness of proceedings.

¹ ICC-01/18-143 05-02-2021 59/60 EC PT

² ICC-01/18-143-Anx1 05-02-2021 1/163 EC PT

Relief requested

Spain therefore respectfully requests permission to submit written observations pursuant to Rule 103 of the Rules of Procedure and Evidence, on the issue of the Court's jurisdiction in relation to Israeli nationals and on the proper interpretation of the Oslo Accords in this regard.



Consuelo Femenía Guardiola
Ambassador of the Kingdom of Spain to the Kingdom of the Netherlands

Dated this Friday, 12 July 2024

At The Hague, The Netherlands