

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 Ireland for Leave to Submit Written Observations Pursuant to Rule
103**

Source: Ireland

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. Ireland recalls that on 20 May 2024 the Prosecutor announced that he had filed applications for warrants of arrest before Pre-Trial Chamber I ('the Chamber') of the International Criminal Court ('the Court') in the Situation in the State of Palestine, pursuant to Article 58 of the Statute of the International Criminal Court ('the Statute').¹
2. Rule 103(1) of the Court's Rules of Procedure and Evidence (the 'Rules') provides, in the relevant part, 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.'
3. On 10 June 2024, the United Kingdom filed a request to provide written *amicus curiae* observations on the question '[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'² ('the UK Request').
4. By Order dated 27 June 2024³ ('the Order'), the Chamber authorised the United Kingdom to file written observations pursuant to Rule 103 of the Rules by 12 July 2024 (subsequently extended to 26 July 2024). In the Order the Chamber also anticipated that the UK Request 'may result in other requests to submit observations' and therefore indicated 'that any such requests pursuant to rule 103(1) of the Rules must also be received by 12 July 2024.'⁴

¹ Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine (Prosecutor's Statement'), 20 May 2024, available at <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

² 10 June 2024, ICC-01/18-171, para. 27.

³ 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.

⁴ ICC-01/18-173-Red, para 6

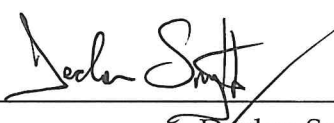
5. Given the 'potential relevance of the issue the United Kingdom wishes to address for the Chamber's assessment' noted by the Chamber in the Order⁵, the Government of Ireland has decided to request leave to submit written observations that may assist the Chamber in that assessment.
6. In Ireland's view the relevant provisions of the Oslo Accords regulate - as between Israel and the Palestine Liberation Organisation - the exercise of adjudicative and enforcement jurisdiction over criminal acts committed by Israeli nationals in the Occupied Palestinian Territory ('OPT') only. As a matter of international law, the Accords cannot extinguish Palestine's criminal jurisdiction over acts committed on its territory, which is an essential incident of a State's sovereignty.
7. Moreover, the agreement not to exercise adjudicative and enforcement jurisdiction over Israelis - to the extent that it continues to apply - does not preclude the exercise by the Court, in accordance with the Rome Statute, of its complimentary jurisdiction over acts committed within the territory of Palestine in circumstances where the Chamber has already determined that Palestine has duly acceded to that Statute.⁶
8. In addition, in Ireland's opinion the concept of 'delegation of jurisdiction' by states to the International Criminal Court does not accurately characterise the jurisdiction of the Court and, accordingly, the question 'whether Palestine could delegate criminal jurisdiction over Israeli nationals to the Court'⁷ does not arise.
9. In view of the foregoing Ireland respectfully requests the leave of the Chamber to submit written observations pursuant to Rule 103 on the legal issue raised in the UK Request. Acknowledging that the Chamber has instructed the Registry

⁵ ICC-01/18-173-Red, para 5

⁶ 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 112.

⁷ UK Request, para 18

to classify all filings in this Situation as 'secret', Ireland further requests that this filing be reclassified as 'public.'



Declan Smyth

Legal Adviser, Department of Foreign Affairs

12 July 2024

Dublin