

**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

Request for Leave to File Observations Pursuant to Rule 103

Source: Dr. Shahd Hammouri

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. I hereby request to submit observations on the basis of the Chamber's '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' of 27 June 2024, ICC-01/18-173. I commit to presenting its observations in accordance with the Chamber's Order and with Rule 103 of the Court's Rules of Procedure and Evidence.

II. INTEREST AND EXPERTISE

2. I was an international legal consultant for the Arab League in 2023. In my capacity as a consultant, I worked on the League's submission to 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. During this consultancy, I undertook extensive research on the Oslo Accords.

3. I am an expert on Palestine, International Law and war, with extensive knowledge of the legal history of the issues at hand. My scholarship seeks to highlight Global South state practice and *opinio juris*, with the purpose of using such perspectives to ascertain the agency of the affected population. In light of the prospective indeterminacy of the issues at hand, I believe that the demands of justice require serious consideration of such sources.

III. SUMMARY OF PROPOSED OBSERVATIONS

4. The legal validity of the Oslo Accords can be challenged on several grounds including duress, significant breaches, and illegality.

5. Conversely, I argue that the Oslo Accords, in view of the complementarity principle, provide an additional reason for the Court to exercise its jurisdiction, rather than challenge its jurisdiction. The principle of complementarity requires, for the admissibility of potential cases, that the competent national authorities be unable or unwilling to exercise their criminal jurisdiction over the crimes or perpetrators, regardless of the legal or material facts that led to such unwillingness or inability. The Court should view the challenges emanating from the Oslo Accords to the Palestinian court's ability to

exercise jurisdiction, along with Israeli courts' unwillingness and/or inability to exercise their jurisdiction over Israeli citizens, as a factor that further necessitates its exercise of jurisdiction. In light of such institutionalized inability and unwillingness, which have led to decades of impunity for some of the gravest crimes under the Rome Statute, I argue that the Court must exercise its jurisdiction.

IV. CONCLUSION

8. I will require no more than 10 pages to develop these observations.

9. For the reasons explained, I request leave to file these observations.

Dr. Shahd Hammouri



Dated this 12th of July 2024

Canterbury, United Kingdom