

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

*No.: ICC-01/18  
Date: 14 February 2020*

1

**PRE-TRIAL CHAMBER I**

**Before:** Judge Péter Kovács, Presiding Judge  
Judge Marc Perrin de Brichambaut  
Judge Reine Adélaïde Sophie Alapini-Gansou

**SITUATION IN THE STATE OF PALESTINE**

**Public  
Application for leave to file written observations  
by Hungary**

**Source: Hungary**

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

**The Office of the Prosecutor**

Fatou Bensouda

James Stewart

**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**

Paolina Massida

**States' Representatives**

**Amicus Curiae**

The competent authorities of the  
State of Palestine

The competent authorities of the  
State of Israel

**REGISTRY**

---

**Registrar**

**Counsel Support Section**

Peter Lewis

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Philipp Ambach

## I. Introduction


1. Pursuant to Rule 103 of the Rules of Procedure and Evidence and to the Order setting the procedure and the schedule for the submission of observations No. ICC-01/18 of the Pre-Trial Chamber, Hungary requests the permission to submit observations as *amicus curiae* as follows.
2. Hungary, as a long-standing supporter of the International Criminal Court (hereinafter as the „Court”) has always been dedicated to the purpose of the Rome Statute (hereinafter as the “Statute”) and the fight against impunity.
3. Regarding the “Situation of Palestine”, Hungary believes that the jurisdiction of this Court in the present case must be assessed from different aspects, taking into consideration the diverging views on the statehood of Palestine.

## II. Summary of Observations:

4. Hungary considers that the relevant question with respect to the jurisdiction of the Court is whether Palestine can be considered as a State within the scope and purpose of Article 12.
5. Article 12 requires “a State” to lodge a declaration accepting the jurisdiction of the Court. However, such a provision does not provide a definition on the constitutive elements of statehood. In accordance with Article 21, Hungary is of the view that the Court shall resort to international law to fill this gap.
6. When the Statehood of a Party to the Statute is unclear, the Court shall refer to the guidance of the Secretary General of the United Nations, and the United Nations General Assembly.
7. On the one hand, the Secretary General fulfilled its duties under the Charter of the United Nations to circulate the instrument of accession of Palestine to the Statute. However, such an act shall not be considered as legal recognition of Palestine as a State for the scope and purpose of Article 12, as it is the fulfillment of its duties as the depository.
8. On the other hand, the UN General Assembly asserted this question in its resolution No. 67/19 (hereinafter as the “resolution”), however, the resolution did not provide a clear

answer regarding the question of statehood. As a mere procedural issue, it conferred a non-member observer status to Palestine in the UN and reaffirmed its right to self-determination. As been pointed out as well by several states during the negotiations, the resolution did not constitute a recognition of Palestinian Statehood. Hungary abstained in the voting process of the aforementioned resolution.

9. In the same spirit in 1988, Hungary recognized the act of proclamation of the State of Palestine, as an integral part of the right to self-determination of the Palestinian people. However, it is the Hungarian position that the territorial boundaries shall be settled through direct negotiations between the parties in the manner that ensures the stability of the region and hence mitigates the risks connected to terrorism. For Hungary, the territorial sovereignty is of utmost importance.
10. Hungary has doubts that Palestine fulfills all the constitutive elements of Statehood, and hence the territorial jurisdiction of the Court does not necessarily extend to the “occupied Palestinian territory”.
11. In accordance with Article 19 (1) of the Statute “the Court shall satisfy itself that it has jurisdiction in any case brought before it”. In view of the above, Hungary respectfully requests the Pre-Trial Chamber to grant leave to submit written observation as an *amicus curiae* with the deadline of 16 March 2020.

  
Péter Szijjártó  
Minister of Foreign Affairs and Trade of Hungary

Dated this 14<sup>th</sup> day of February 2020

At Budapest, Hungary