



**Original: English**

**No.: ICC-01/18  
Date: 26 February 2025**

**PRE-TRIAL CHAMBER I**

**Before:**

**Judge Nicolas Guillou, Presiding  
Judge Reine Adélaïde Sophie Alapini-Gansou  
Judge Beti Hohler**

**SITUATION IN THE STATE OF PALESTINE**

**Public**

**Decision terminating proceedings against Mr Mohammed Diab Ibrahim  
Al-Masri (Deif)**

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

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|--|---|
| <input checked="" type="checkbox"/> <b>The Office of the Prosecutor</b>  | <input type="checkbox"/> <b>Counsel for the Defence</b>                             |
| <input type="checkbox"/> <b>Legal Representatives of the Victims</b>     | <input type="checkbox"/> <b>Legal Representatives of the Applicants</b>             |
| <input type="checkbox"/> <b>Unrepresented Victims</b>                    | <input type="checkbox"/> <b>Unrepresented Applicants (Participation/Reparation)</b> |
| <input type="checkbox"/> <b>The Office of Public Counsel for Victims</b> | <input type="checkbox"/> <b>The Office of Public Counsel for the Defence</b>        |
| <input type="checkbox"/> <b>States' Representatives</b>                  | <input type="checkbox"/> <b>Amicus Curiae</b>                                       |

## **REGISTRY**

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| <b>Registrar</b><br><b>Mr Osvaldo Zavala Giler</b>                            | <input type="checkbox"/> <b>Counsel Support Section</b> |
| <input type="checkbox"/> <b>Victims and Witnesses Unit</b>                    | <input type="checkbox"/> <b>Detention Section</b>       |
| <input type="checkbox"/> <b>Victims Participation and Reparations Section</b> | <input type="checkbox"/> <b>Other</b>                   |

**PRE-TRIAL CHAMBER I** (the ‘Chamber’) of the International Criminal Court issues this decision terminating proceedings against Mr Mohammed Diab Ibrahim Al-Masri (‘Deif’).

1. On 20 May 2024, the Prosecution filed an application under article 58 of the Statute for a warrant of arrest against Mr Al-Masri (‘Deif’).<sup>1</sup>
2. On 15 November 2024, the Prosecution informed the Chamber that it had taken steps to investigate reports alleging the death of Mr Al-Masri (‘Deif’) in an Israeli strike in July 2024. The Prosecution stated that it did not have, at that stage, sufficient and reliable information with respect to Mr Al-Masri (‘Deif’)’s death so as to withdraw its application for an arrest warrant (the ‘Notification’).<sup>2</sup>
3. On 22 November 2024, the Chamber issued a warrant of arrest for Mr Al-Masri (‘Deif’) (the ‘Arrest Warrant’).<sup>3</sup>
4. On 14 February 2025, the Prosecution notified the Chamber that it had obtained sufficient and reliable information that Mr Al-Masri (‘Deif’) was killed in Gaza and requested the Chamber to withdraw the Arrest Warrant and terminate proceedings against him due to the change in circumstances caused by his death (the ‘Request’).<sup>4</sup> The Prosecution further requested that the termination be made without prejudice to pursuing proceedings against Mr Al-Masri (‘Deif’) again, should information become available that he is alive.
5. The Chamber notes that, pursuant to article 25(1) of the Statute, the Court has jurisdiction only over ‘natural’ persons. As the purpose of the Court’s criminal proceedings is to determine individual criminal responsibility, that jurisdiction cannot be exercised over a deceased person. Therefore, proceedings against a person who is deceased must be terminated and all relevant documents rendered without effect.<sup>5</sup> The Chamber further

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<sup>1</sup> ICC-01/18-167-SECRET-Exp.

<sup>2</sup> ICC-01/18-372-SECRET-Exp.

<sup>3</sup> ICC-01/18-376-SECRET-Exp.

<sup>4</sup> ICC-01/18-413-SECRET-Exp.

<sup>5</sup> Article 58(4) of the Statute. Pre-Trial Chamber I, *The Prosecutor v. Saif Al-Islam Gaddafi*, Decision to Terminate the Case Against Muammar Mohammed Abu Minyar Gaddafi, 22 November 2011, ICC-01/11-01/11-28, p. 4; *The Prosecutor v. Mahmoud Mustafa Busayf Al-Werfalli*, Decision terminating proceedings against Mr Mahmoud Mustafa Busayf Al-Werfalli, 15 June 2022, ICC-01/11-01/17-24, (*Al-Werfalli Termination of Proceedings Decision*), para. 4.

notes that the production of a death certificate is not a pre-requisite for terminating criminal proceedings, but it may serve to prove that the suspect is in fact deceased.<sup>6</sup>

6. The Chamber has considered the information provided by the Prosecution in its Request, in particular the number of public and official announcements concerning the death of Mr Al-Masri ('Deif') by Hamas' representatives, Mr Al-Masri's relatives, and Israeli authorities.<sup>7</sup> The Chamber considers the abovementioned information to be sufficient to establish the death of Mr Al-Masri ('Deif').
7. As a result, the Chamber decides to terminate the proceedings against Mr Al-Masri ('Deif') and renders the Arrest Warrant as well as any outstanding requests in relation to the proceedings against him without effect. This is without prejudice to pursuing proceedings again, should information become available that Mr Al-Masri ('Deif') is still alive.
8. Noting the Prosecution's indication that the Request could be re-classified as public, should the Chamber terminate the proceedings against Mr Al-Masri ('Deif'), the Chamber instructs the Registry to re-classify the Request as public.
9. The Prosecution is instructed to file a public redacted version of its Notification, or indicate whether it could be re-classified as public, by no later than 6 March 2025.

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<sup>6</sup> *Al-Werfalli* Termination of Proceedings Decision, para. 4. See also, Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, Public redacted Decision terminating the proceedings against Mr Jerbo, 4 October 2013, ICC-02/05-03/09-512-Red, para. 18.

<sup>7</sup> Request, paras 10-14.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**TERMINATES** the proceedings against Mr Al-Masri ('Deif');

**ORDERS** the Registry to inform all States which were notified of the Arrest Warrant that it is no longer in effect and to withdraw any outstanding requests in relation to the proceedings against Mr Al-Masri ('Deif');

**ORDERS** the Registry to reclassify the Request as public;

**ORDERS** the Prosecution to file a public redacted version of its Notification, or indicate whether it could be re-classified as public, by no later than 6 March 2025.

Done in English. A French translation will follow. The English version remains authoritative.



**Judge Nicolas Guillou**

**Presiding Judge**



**Judge Reine Adélaïde Sophie Alapini-  
Gansou**



**Judge Beti Hohler**

Dated this Wednesday, 26 February 2025

At The Hague, The Netherlands