



Original: English

**No. ICC-01/18
Date: 28 January 2020**

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

Order setting the procedure and the schedule for the submission of observations

Order 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 Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
for Participation/Reparations**

**The Office of Public Counsel
for Victims**

Paolina Massidda

**The Office of Public Counsel
for the Defence**

States Representatives

The competent authorities of the
State of Palestine
The competent authorities of the
State of Israel

Amicus Curiae

Guernica 37 International Justice Chambers

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and
Reparations Section**

Philipp Ambach

Other

PRE-TRIAL CHAMBER I of the International Criminal Court issues this order setting the procedure and the schedule for the submission of observations.

I. PROCEDURAL HISTORY

1. On 1 January 2015, the State of Palestine ('Palestine') lodged a declaration under article 12(3) of the Rome Statute (the 'Statute'), thereby accepting the jurisdiction of the Court over alleged crimes 'committed in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014'.¹

2. On 2 January 2015, Palestine deposited its instrument of accession to the Statute with the United Nations Secretary-General in accordance with article 125(2) of the Statute.²

3. On 22 May 2018, Palestine referred the situation in the State of Palestine to the Prosecutor pursuant to articles 13(a) and 14 of the Statute, thereby *inter alia*: (i) requesting the Prosecutor 'to investigate, in accordance with the temporal jurisdiction of the Court, past, ongoing and future crimes within the court's jurisdiction, committed in all parts of the territory of the State of Palestine';³ and (ii) specifying that '[t]he State of Palestine comprises the Palestinian Territory occupied in 1967 by Israel, as defined by the 1949 Armistice Line, and includes the West Bank, including East Jerusalem, and the Gaza Strip'.⁴

4. On 24 May 2018, pursuant to regulation 46(2) of the Regulations of the Court (the 'Regulations'), the Presidency assigned the Situation in the State of Palestine to the Chamber.⁵

5. On 13 July 2018, the Chamber issued its 'Decision on Information and Outreach for the Victims of the Situation'.⁶ Following this decision, the Registrar filed five

¹ Presidency, Decision assigning the situation in the State of Palestine to Pre-Trial Chamber I ('Assignment Decision'), Annex I, 24 May 2018, [ICC-01/18-1-AnxI](#), p. 2.

² Secretary-General of the United Nations, 'Rome Statute of the International Criminal Court, Rome, 17 July 1998, State of Palestine: Accession', 6 January 2015, Reference: C.N.13.2015. TreatiesXVIII.10 (Depositary Notification), <https://treaties.un.org/doc/Publication/CN/2015/CN.13.2015Eng.pdf>.

³ Assignment Decision, [Annex I](#), ICC-01/18-1-AnxI, p. 8, para. 9.

⁴ Assignment Decision, [Annex I](#), ICC-01/18-1-AnxI, footnote 4.

⁵ [Assignment Decision](#), ICC-01/18-1, p. 3.

⁶ [ICC-01/18-2](#).

reports on ‘Information and Outreach Activities Concerning Victims and Affected Communities in the Situation’.⁷

6. On 20 December 2019, the Chamber received the Prosecutor’s ‘Application for extension of pages for request under article 19(3) of the Statute’ (the ‘Request for an Extension of the Page Limit’).⁸ On the same day, the Chamber also received the ‘Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine’ (the ‘Prosecutor’s 20 December 2019 Request’).⁹

7. On 23 December 2019, the Chamber received the ‘Supplementary information to the Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine’, together with two annexes containing two legal memoranda issued by the State of Israel (‘Israel’ and the ‘Supplementary Information’),¹⁰ thereby requesting that those documents be ‘placed on the record of the situation for completeness’.

8. On 21 January 2020, the Chamber issued the ‘Decision on the Prosecutor’s Application for an extension of the page limit’, thereby: (i) granting the Request for an Extension of the Page Limit; (ii) rejecting *in limine* the Prosecutor’s 20 December 2019 Request; (iii) inviting the Prosecutor to file a new request of no more than 110 pages, including any references to the Supplementary Information; and (iv) instructing the Registrar to strike from the record of the Situation and withdraw from the Court’s website the Prosecutor’s 20 December 2019 Request, its annex and the Supplementary Information.¹¹

⁷ [Public redacted version of ‘Registry’s Initial Report on Information and Outreach Activities Concerning Victims and Affected Communities in the Situation’](#), filed 12 November 2018 (ICC-01/183-Conf), 19 November 2018, ICC-01/18-3-Red; Public redacted version of ‘Registry’s Second Report on Information and Outreach Activities Concerning Victims and Affected Communities in the Situation’, filed 12 February 2019 (ICC-01/18-4-Conf), 13 February 2019, ICC-01/18-4-Red; [Public redacted version of ‘Registry’s Third Report on Information and Outreach Activities Concerning Victims and Affected Communities in the Situation’](#), filed 13 May 2019 (ICC-01/18-5-Conf), ICC01/18-5-Red; [Public redacted version of ‘Registry’s Fourth Report on Information and Outreach Activities Concerning Victims and Affected Communities in the Situation’](#), filed 9 August 2019 (ICC01/18-6-Conf), ICC-01/18-6-Red; [Registry’s Fifth Report on Information and Outreach Activities Concerning Victims and Affected Communities in the Situation](#), 15 November 2019, ICC-01/18-7.

⁸ [ICC-01/18-8](#).

⁹ ICC-01/18-9, together with Public Annex A.

¹⁰ ICC-01/18-10, together with Public Annexes A and B.

¹¹ [ICC-01/18-11](#).

9. On 22 January 2020, the Chamber received the ‘Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine’ (the ‘Prosecutor’s Request’).¹²

10. On 23 January 2020, the Chamber received the ‘Request for Leave to Submit Amicus Curiae Observations by Guernica 37 International Justice Chambers (pursuant to Rule 103 of the Rules)’ (the ‘Guernica 37 Request’).¹³

II. DETERMINATION BY THE CHAMBER

A. Procedure and schedule for observations

11. The Chamber notes article 19(3) of the Statute, rules 58(2), 59(3) and 103 of the Rules of Procedure and Evidence (the ‘Rules’), and regulations 80 and 81 of the Regulations.

12. Seeing that the Prosecutor’s Request is based on article 19(3) of the Statute, the Chamber considers it appropriate to proceed on the basis of this provision for the purposes of the present order and without prejudice to any future determination on its applicability to the current stage of the proceedings.

13. Accordingly, the Chamber invites Palestine and victims in the Situation in the State of Palestine to submit written observations on the Prosecutor’s Request of no more than 30 pages by no later than 16 March 2020. Such observations shall be limited to the question of jurisdiction set forth in paragraph 220 of the Prosecutor’s Request and shall not address any other issues arising from this Situation.

14. In the interests of efficiency and expeditiousness, the Chamber, acting pursuant to regulations 80 and 81(4)(b) of the Regulations, also considers it appropriate to appoint counsel from the Office of the Public Counsel for Victims (the ‘OPCV’) to represent victims in the Situation in the State of Palestine who do not have legal representation for the sole purpose of submitting observations in accordance with paragraph 13 of the present order. In addition, the Chamber instructs the Registrar to provide the OPCV with the assistance it requires to fulfil its mandate.

¹² [ICC-01/18-12](#), together with Public Annex A.

¹³ [ICC-01/18-13](#).

15. Furthermore, considering the complexity and novelty of the Prosecutor's Request, the Chamber considers it desirable to, pursuant to rule 103 of the Rules, invite States, organisations and/or persons to submit observations on the question of jurisdiction set forth in paragraph 220 of the Prosecutor's Request without addressing any other issues arising from this Situation, as further specified below.

16. The Chamber notes that Israel has an interest in the adjudication of the Prosecutor's Request and, accordingly, invites Israel to submit written observations of no more than 30 pages by no later than 16 March 2020.

17. In addition, other States, organisations and/or persons may submit applications for leave to file written observations by no later than 14 February 2020. Such applications shall: (i) not exceed 10 pages; (ii) provide a summary of the observations that would be submitted if leave were to be granted; and (iii) contain details on the affiliation and expertise of organisations and persons applying for leave to file observations. Without any prejudice to the decision of the Chamber in relation to such applications, the Chamber gives notice to potential *amici curiae* that any observations will have to be submitted by no later than 16 March 2020.

18. Lastly, the Chamber orders the Prosecutor to submit a consolidated response in writing to any observations submitted in accordance with the present order by no later than 30 March 2020.

B. The Guernica 37 Request

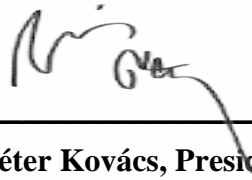
19. The Chamber notes that the Guernica 37 Request refers exclusively to the Prosecutor's 20 December 2019 Request, which was rejected by the Chamber, as opposed to the Prosecutor's Request resubmitted on 22 January 2020.

20. Therefore, the Chamber invites Guernica 37 International Justice Chambers to withdraw the Guernica 37 Request and submit a new request pursuant to rule 103 of the Rules in accordance with the present order.

FOR THESE REASONS, THE CHAMBER HEREBY

- a) **INVITES** Palestine and victims in the Situation in the State of Palestine to submit written observations on the Prosecutor's Request of no more than 30 pages by no later than 16 March 2020 in accordance with paragraph 13 of the present order;
- b) **APPOINTS** counsel from the OPCV to represent victims in the Situation in the State of Palestine who do not have legal representation for the sole purpose of submitting observations in accordance with paragraph 13 of the present order;
- c) **ORDERS** the Registry to provide the OPCV with the assistance it requires to fulfil its mandate;
- d) **INVITES** Israel to submit written observations on the Prosecutor's Request of no more than 30 pages by no later than 16 March 2020 in accordance with paragraphs 15 and 16 of the present order;
- e) **INVITES** other States, organisations and/or persons wishing to provide written observations on the Prosecutor's Request to submit applications for leave to file such observations by no later than 14 February 2020 in accordance with paragraphs 15 and 17 of the present order;
- f) **ORDERS** the Prosecutor to submit a consolidated response in writing to any observations submitted in accordance with the present order by no later than 30 March 2020;
- g) **INVITES** Guernica 37 International Justice Chambers to withdraw the Guernica 37 Request and submit a new request pursuant to rule 103 of the Rules in accordance with the present order; and
- h) **INSTRUCTS** the Registry to notify the present order and the Prosecutor's Request to Israel, Palestine, the OPCV and Guernica 37 International Justice Chambers.

Done in both English and French, the English version being authoritative.



Judge Péter Kovács, Presiding Judge



Judge Marc Perrin de Brichambaut



**Judge Reine Adélaïde Sophie
Alapini-Gansou**

Dated this Tuesday, 28 January 2020

At The Hague, The Netherlands