

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No. ICC-01/18
Date: **8 June 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

Prosecution Response to “The State of Palestine’s response to the Pre-Trial Chamber’s Order requesting additional information”

Source: Office of the Prosecutor

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Court to:

The Office of the Prosecutor

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Introduction

1. On 26 May 2020, Pre-Trial Chamber I (the “Chamber”) requested Palestine to provide additional information by 10 June 2020 with respect to a statement issued by President Abbas on 19 May 2020 (“Statement”).¹ On 5 June 2020, Palestine provided its observations and requested that the Chamber considered shortening the deadline for response and that it enquired from Israel whether it intended to respond to the Chamber’s invitation.²
2. The Prosecution does not oppose the shortening of the deadline and herewith responds to Palestine Observations.

Submissions

3. On 26 May 2020, the Chamber noted that “President Abbas declared *inter alia* that ‘the Palestine Liberation Organization and the State of Palestine are absolved, as of today, of all the agreements and understandings with the American and Israeli governments and of all the commitments based on these understandings and agreements, including the security ones’”.³ The Chamber “request[ed] Palestine to provide additional information on this statement, including on the question whether it pertains to any of the Oslo agreements between Palestine and Israel, by no later than 10 June 2020”.⁴ It also ordered the Prosecutor and invited Israel to submit a response by no later than 24 June 2020.⁵
4. On 5 June 2020, Palestine provided its observations.⁶ It explained that the Statement was made in response to Israel’s declared plan to annex “Palestinian territory under Israeli occupation”,⁷ noting that “the Statement declares that if Israel proceeds with annexation, a material breach of the agreements between the two

¹ ICC-01/18-134 (“[Order](#)”).

² [Order](#), para. 6.

³ [Order](#), para. 5.

⁴ [Order](#), para. 6.

⁵ [Order](#), p. 4.

⁶ ICC-01/18-135 (“[Palestine Observations](#)”), para. 33.

⁷ [Palestine Observations](#), para. 7.

sides, then it will have annulled any remnants of the Oslo Accords and all other agreements concluded between them”, stating this has the effect of “absolv[ing] the Palestine Liberation Organization (‘PLO’) and the State of Palestine from any obligation arising from these agreements, including security agreements”.⁸

5. The Prosecution does not consider that the Statement has a bearing on the status of Palestine as a State Party to the Rome Statute and on the exercise of the Court’s jurisdiction in the situation in Palestine. The Prosecution has already explained its understanding of the Oslo Accords and its position that the Oslo Accords do not bar the exercise of the Court’s jurisdiction in Palestine.⁹ The Prosecution’s position remains the same.

6. Further, the Prosecution has noted, with concern, Israel’s declared intention to imminently annex parts of the Occupied Palestinian Territory.¹⁰ The Prosecution recalls that, as stated in its Request, “any unilateral annexation by the Occupying Power of an occupied territory—in whole or in part—has no legal validity and the law of occupation continues to apply”.¹¹

Conclusion

7. The Prosecution herewith responds to Palestine Observations and reiterates its requests that Pre-Trial Chamber I expeditiously rule on the scope of the Court’s territorial jurisdiction in the situation of Palestine and confirm that the “territory”

⁸ [Palestine Observations](#), para. 13; *see also* para. 16 (“In relation to Israel, the Statement simply highlights and reiterates what is already required of Israel, as the Occupying Power, by international law, including the Fourth Geneva Convention, the Hague Regulation, and customary international law, which provide that the Occupying Power shall assume responsibility for the occupied territory and its inhabitants while not altering the demographic composition, character, and status of the territory”); *see also* paras. 21 and 30.

⁹ [Prosecution Request](#), paras. 63-76, 183-189; *see also* ICC-01/18-131 (“[Prosecution Amici Curiae et al Response](#)”), paras. 62-77.

¹⁰ *See e.g.* [Gantz tells Israeli Army to step up preparations in West Bank ahead of possible annexation](#) (further referring to the [coalition agreement](#), which purportedly includes a timeline for potential annexation of parts of the West Bank over the summer); *see also* [Israeli Annexation Explained: What Is Netanyahu Planning for the West Bank and What Does It Mean](#) (noting that “[b]ased on his agreement with Gantz, Netanyahu will be able to commence West Bank annexation plans on July 1”); [Netanyahu takes office in deal that could see West Bank annexation](#).

¹¹ [Prosecution Request](#), para. 179 (second bullet point).

over which the Court may exercise its jurisdiction under article 12(2)(a) comprises the West Bank, including East Jerusalem, and Gaza.

A handwritten signature in blue ink, appearing to read 'Fatou Bensouda', is written over a horizontal line. The signature is stylized and slanted.

Fatou Bensouda, Prosecutor

Dated this 8th day of June 2020

At The Hague, The Netherlands