



Original: English

**No. ICC-01/18 OA3
Date: 17 October 2025**

THE APPEALS CHAMBER

Before:
Judge Tomoko Akane, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin

SITUATION IN THE STATE OF PALESTINE

Public document

**Decision on victims' requests to submit observations in the appeal against the
"Decision on Israel's request for an order to the Prosecution to give
an Article 18(1) notice"**

Decision 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**

The Appeals Chamber of the International Criminal Court,

In the appeal of the State of Israel against the decision of Pre-Trial Chamber I entitled “Decision on Israel’s request for an order to the Prosecution to give an Article 18(1) notice” of 21 November 2024 (ICC-01/18-375),

Having before it the “Joint Victims’ Request to submit Observations in the appeal against the « Decision on Israel’s request for an order to the Prosecution to give an Article 18(1) notice » of 21 November 2024” of 15 July 2025 (ICC-01/18-459-AnxI), and the “Requête de représentants légaux de victimes de soumettre des observations dans le cadre de l’appel contre la “Decision on Israel’s request for an order to the Prosecution to give an Article 18(1) notice” (ICC-01/18-375)” of 22 July 2025 (ICC-01/18-460-AnxI),

Pursuant to article 68(3) of the Statute,

Renders, by majority, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa dissenting, the following

DECISION

The aforementioned requests for leave to submit observations in the current appeal are rejected.

REASONS

I. PROCEDURAL HISTORY

1. On 21 November 2024, Pre-Trial Chamber I (hereinafter: “Pre-Trial Chamber”) issued the “Decision on Israel’s request for an order to the Prosecution to give an Article 18(1) notice” (hereinafter: “Impugned Decision”), thereby rejecting a request submitted by the State of Israel (hereinafter: “Israel”) pursuant to article 18 of the Statute.¹

¹ [Impugned Decision](#), p. 9.

2. On 14 May 2025, the Pre-Trial Chamber granted Israel's request for leave to appeal the Impugned Decision on the following issue: "[w]hether the Pre-Trial Chamber erred in finding that no new situation had arisen, and that no substantial change had occurred in the parameters of the investigation into the situation, following 7 October 2023".²
3. On 26 May 2025, Israel filed its appeal brief against the Impugned Decision (hereinafter: "Appeal Brief").³
4. On 9 June 2025, the Prosecutor filed his response to Israel's Appeal Brief (hereinafter: "Prosecutor's Response").⁴
5. On 9 July 2025, following Israel's request,⁵ the Appeals Chamber granted it leave to reply to the Prosecutor's Response.⁶
6. On 16 July 2025, Israel submitted its reply to the Prosecutor's Response (hereinafter: "Reply").⁷
7. On 17 July 2025, the Registry transmitted to the Appeals Chamber a joint request to submit observations in the appeal against the Impugned Decision, filed by three teams of legal representatives of victims (hereinafter: "LRVs" and "First Request").⁸

² [Decision on Israel's request for leave to appeal the 'Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice'](#), ICC-01/18-429, paras 8, 17-20, p. 8.

³ [Appeal of "Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice" \(ICC-01/18-375\)](#), ICC-01/18-434, with public Annex A, [ICC-01/18-434-AnxA](#).

⁴ [Prosecution Response to Israel's "Appeal of 'Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice' \(ICC-01/18-375\)"](#), ICC-01/18-440, with confidential Annexes A, B and C.

⁵ [Request for leave to reply to Prosecution Response to Israel's "Appeal of 'Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice' \(ICC-01/18-375\)"](#), 13 June 2025, ICC-01/18-441, with Confidential Annex I.

⁶ [Decision on request for leave to reply to Prosecution Response to Israel's "Appeal of 'Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice' \(ICC-01/18-375\)"](#), ICC-01/18-456.

⁷ [Reply to Prosecution Response to Israel's Appeal of "Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice" \(ICC-01/18-375\)](#), ICC-01/18-458, with confidential Annex I.

⁸ [Registry Transmission of "Joint Victims' Request to submit Observations in the appeal against the « Decision on Israel's request for an order to the Prosecution to give an Article 18\(1\) notice » of 21 November 2024"](#), ICC-01/18-459, with public Annex I, [ICC-01/18-459-AnxI](#).

8. On 22 July 2025, the Registry transmitted to the Appeals Chamber a second request to submit observations in the present appeal by another team of LRVs (hereinafter: “Second Request”).⁹

9. On 25 July 2025, Israel submitted a consolidated response to the First Request and the Second Request (hereinafter: “Israel’s Response”), requesting that both be rejected.¹⁰

II. MERITS

A. Summary of the submissions

10. In the First Request, the LRVs submit that: (i) the victims they represent satisfy the criteria to be accorded victim status under rule 85 of the Rules of Procedure and Evidence (hereinafter: “Rules”) and have previously participated in proceedings relating to the Situation in the State of Palestine (hereinafter: “Palestine Situation”) under article 68(3) of the Statute;¹¹ (ii) the legal framework and jurisprudence of the Court envisage the participation of victims in proceedings relating to article 18 of the Statute;¹² (iii) the decision of the Appeals Chamber on this appeal will directly affect the personal interests of the victims they represent;¹³ and (iv) it is appropriate for the victims to be permitted to participate at the current stage of the proceedings.¹⁴

11. The LRVs in the First Request further submit that, if leave is granted, their submissions will be limited to the question on which leave to appeal was granted.¹⁵ In particular, the LRVs submit that, if leave is granted, their submissions “will be to the effect that the Prosecution had no obligation to issue a new notification under

⁹ [Registry Transmission of “Requête de représentants légaux de victimes de soumettre des observations dans le cadre de l’appel contre la “Decision on Israel’s request for an order to the Prosecution to give an Article 18\(1\) notice” \(ICC-01/18- 375\)”](#), ICC-01/18-460, with Public Annex I, [ICC-01/18-460-AnxI](#).

¹⁰ [Consolidated Response to \(1\) Joint Victims’ Request to submit Observations in the appeal against the Decision on Israel’s request for an order to the Prosecution to give an Article 18\(1\) Notice; and \(2\) Requête de représentants légaux de victimes de soumettre des observations dans le cadre de l’appel contre la “Decision on Israel’s request for an order to the Prosecution to give an Article 18\(1\) notice”](#), ICC-01/18-464.

¹¹ [First Request](#), paras 6-10.

¹² [First Request](#), paras 11-13.

¹³ [First Request](#), para. 14.

¹⁴ [First Request](#), para. 15.

¹⁵ [First Request](#), para. 16.

article 18(1) since no new situation arose, and no substantial change occurred in the parameters of the investigation already opened, following 7 October 2023”.¹⁶

12. The LRVs in the Second Request support the First Request and seek to participate in the proceedings, arguing that they have been authorised to submit observations in the Palestine Situation.¹⁷

13. In response, Israel submits that the First Request and the Second Requests should not be granted because: (i) they have not been filed in a timely fashion and granting them would disrupt the already completed briefing schedule for the appeal; (ii) no victims have previously participated (or requested to participate) in the article 18 proceedings before the Pre-Trial Chamber or the Appeals Chamber; and (iii) the victims seek modalities for direct participation outside those ordinarily granted to individual victims in article 18 appeal proceedings.¹⁸

B. Determination by the Appeals Chamber

14. At the outset, the Appeals Chamber notes that neither the Statute nor the Rules explicitly provide for the participation of victims in the context of proceedings related to article 18(1) of the Statute.

15. As has been previously held, victims may seek participation in “any judicial proceedings, including proceedings affecting investigations, provided their personal interests are affected by the issues arising for resolution”.¹⁹ Article 68(3) of the Statute provides as follows:

Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

¹⁶ [First Request](#), para. 16.

¹⁷ [Second Request](#), para. 9.

¹⁸ [Israel’s Response](#), para. 10.

¹⁹ Appeals Chamber, *Situation in the Democratic Republic of the Congo*, [Judgment on victim participation in the investigation stage of the proceedings in the appeal of the OPCD against the decision of Pre-Trial Chamber I of 7 December 2007 and in the appeals of the OPCD and the Prosecutor against the decision of Pre-Trial Chamber I of 24 December 2007](#), 19 December 2008, ICC-01/04-556 (OA4-OA6) (hereinafter: “DRC OA4-OA6 Judgment”), para. 56.

16. The Appeals Chamber underscores that the Court retains discretion as to which stage of the proceedings it considers appropriate to allow victims to present their views and concerns. In this regard, the Appeals Chamber recalls that the modalities of victims' involvement in judicial proceedings at the stage of a situation are generally limited as compared with the stage of a case. For instance, it takes note of rule 92 of the Rules, regulating an aspect of victim participation – the notification of filings – which expressly “exempts from its provisions proceedings under Part 2 of the Statute (see rule 92 (1) of the Rules)”.²⁰ Article 18 belongs to that part of the Statute.

17. The Appeals Chamber also notes that specific procedures at the situation stage envisage victims' involvement, albeit in a limited form. For example, article 15(3) of the Statute allows victims to make representations in relation to the authorisation of an investigation, and article 19(3) of the Statute allows “for the submission of observations by victims with regard to the jurisdiction of the Court to take cognisance of a case or its admissibility”.²¹ However, the Appeals Chamber, by majority, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa dissenting, considers that these are limited instances and that neither of them is relevant to the present Requests.

18. The Appeals Chamber further notes that, in the Situations in the Republic of the Philippines and in the Bolivarian Republic of Venezuela I, it authorised victims to be involved in proceedings related to article 18(2) of the Statute, by allowing them to make representations, through the Victims Participation and Reparations Section, before the Appeals Chamber.²² The Appeals Chamber, by majority, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa dissenting, notes, however, that these decisions were rendered in the context of proceedings related to the pre-trial chambers' authorisations to the Prosecutor to resume investigations in the relevant situations,

²⁰ [DRC OA4-OA6 Judgment](#), para. 47.

²¹ [DRC OA4-OA6 Judgment](#), para. 47. See also Appeals Chamber, *Situation in Darfur*, [Judgment on victim participation in the investigation stage of the proceedings in the appeal of the OPCD against the decision of Pre-Trial Chamber I of 3 December 2007 and in the appeals of the OPCD and the Prosecutor against the decision of Pre-Trial Chamber I of 6 December 2007](#), 2 February 2009, ICC-02/05-177 (OA-OA3), para. 7.

²² [First Request](#), para. 12, referring to Appeals Chamber, *Situation in the Republic of the Philippines*, [Decision on requests for victims' involvement and access to filings](#), 21 March 2023, ICC-01/21-66 (OA) (hereinafter: “Philippines OA Decision”), para. 17; Appeals Chamber, *Situation in the Bolivarian Republic of Venezuela I*, [Decision on requests for victims' involvement](#), 24 August 2023, ICC-02/18-60 (OA) (hereinafter: “Venezuela OA Decision”), para. 13. See also [Second Request](#), para. 9.

following the States' respective requests for deferral of the investigations pursuant to article 18(2) of the Statute.

19. The present appeal is brought against a decision that was rendered in the context of a request made by a State to the Pre-Trial Chamber for an order to the Prosecutor to provide a notice pursuant to article 18(1) of the Statute.²³ Accordingly, the Appeals Chamber, by majority, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa dissenting, considers that, contrary to the LRVs' submissions,²⁴ the above decisions are not directly applicable to the present appeal.

20. The Appeals Chamber also recalls that it has allowed victims to participate in proceedings on appeal if they have participated in the first instance proceedings leading to the impugned decision.²⁵ However, the victims who are seeking to make submissions in the present appeal did not participate in the proceedings before the Pre-Trial Chamber leading to the Impugned Decision.²⁶ From the First Request, it appears that the relevant LRVs participated in other proceedings in the Palestine Situation before the Pre-Trial Chamber.²⁷ The Appeals Chamber notes that in the Second Request there is no indication of participation in prior proceedings in the Palestine Situation.²⁸

²³ See [Impugned Decision](#).

²⁴ [First Request](#), para. 12; [Second Request](#), para. 9.

²⁵ See, for example, Appeals Chamber, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Reasons for the "Decision on the 'Request for the recognition of the right of victims authorized to participate in the case to automatically participate in any interlocutory appeal arising from the case and, in the alternative, application to participate in the interlocutory appeal against the ninth decision on Mr Gbagbo's detention (ICC-02/11-01/15-134-Red3)'" , 31 July 2015, ICC-02/11-01/15-172 (OA6), paras 16-20.

²⁶ The Appeals Chamber notes that, while the request that led to the Impugned Decision was initially submitted as "secret", it was reclassified as public pursuant to an instruction of the Pre-Trial Chamber on 4 October 2024, see [Abridged Request for an Order Requiring an Article 18\(1\) Notice, and Staying Proceedings Pending Such a Notice](#), 23 September 2024, ICC-01/18-355-AnxI-Corr, with public annexes A-G.

²⁷ [First Request](#), paras 7-8, 10 referring to [Submission on Behalf of Palestinian Victims Residents of the Gaza Strip](#), 16 March 2020, ICC-01/18-112; [Submission on behalf of Gaza Victims in the proceedings related to the Situation in the State of Palestine](#), 12 August 2024, ICC-01/18-335; [Submission on behalf of victims in Article 19 proceedings related to the Situation in the State of Palestine](#), 28 October 2024, ICC-01/18-369; [Victims' observations on the Prosecutor's request for a ruling on the Court's territorial jurisdiction in Palestine](#), 16 March 2020, ICC-01/18-99; [Victims' Observations pursuant to Article 68\(3\) of the Rome Statute](#), 12 August 2024, ICC-01/18-330; [Joint submissions on behalf of Palestinian Victims pursuant to Article 68\(3\) of the Rome Statute related to Article 19 proceedings](#), 27 June 2025, ICC-01/18-451.

²⁸ [Second Request](#).

21. The Appeals Chamber also notes that both Requests were filed after the briefing schedule was completed.²⁹ The First Request was transmitted to the Appeals Chamber on 17 July 2025, one day after the Reply; and the Second Request was transmitted to the Appeals Chamber on 22 July 2025, almost one week after the Reply.³⁰

22. For the foregoing reasons and noting the specific circumstances of the appeal, the Appeals Chamber, by majority, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa dissenting, does not consider that the victims' involvement is appropriate at the current stage of the proceedings. This notwithstanding, and recalling the important role that victims play in the proceedings before the Court, the Appeals Chamber underlines that the present decision does not preclude any future participation by victims when determined to be appropriate by the Chamber.

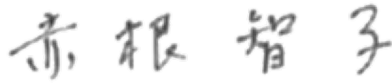
23. In light of the above, the Appeals Chamber, by majority, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa dissenting, rejects the First Request and the Second Request.

24. Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa append a joint dissenting opinion to this decision.

²⁹ See Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Decision, in limine, on Victim Participation in the appeals of the Prosecutor and the Defence against Trial Chamber I's Decision entitled "Decision on Victims' Participation"](#), 16 May 2008, ICC-01/04-01/06-1335 (OA9-OA10), para. 15. The Appeals Chamber further notes that, in the cases relied upon by the LRVs in the First and Second Requests, the victims' requests to present observations were filed shortly after the notices of appeal and before the filing of the appeal briefs. See [Philippines OA Decision](#), paras 7-12; [Venezuela OA Decision](#), paras 6-11.

³⁰ [First Request](#) (submitted on 15 July 2025 and transmitted on 17 July 2025); [Second Request](#) (submitted on 21 July 2025 and transmitted on 22 July 2025).

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



Judge Tomoko Akane
Presiding

Dated this 17th day of October 2025

At The Hague, The Netherlands