

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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*No.: ICC-01/18
Date: 13 February 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
**Request for Leave to Submit Observations with respect to the Situation in the
State of Palestine**

Source: Organization of Islamic Cooperation

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

The Office of the Prosecutor
Fatou Bensouda - Prosecutor
James Stewart

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

**The Office of Public Counsel for
Victims**

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

Paolina Massidda

States' Representatives
Competent Authorities of the State of
Palestine

Amicus Curiae

REGISTRY

Registrar
Peter Lewis

Counsel Support Section

Victims and Witnesses Unit
Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**
Philipp Ambach

Other

I. Procedural History

1. On 22 January, the Office of the Prosecutor (hereinafter: the Prosecutor) submitted a Request, pursuant to Article 19(3) of the Rome Statute, seeking a ruling from Pre-Trial Chamber I ('the Chamber') on the 'scope of the Court's territorial jurisdiction in the situation of Palestine and to confirm that the "territory" over which the Court may exercise its jurisdiction under article 12(2)(a) comprises the West Bank, including East Jerusalem, and Gaza'.¹
2. On 28 January 2020, the Chamber issued an Order 'setting the procedure and the schedule for the submission of observations',² Inviting organisations to provide written observations on the Prosecutor's Request to submit applications for leave by 14 February 2020.³
3. As per the invitation of the Chamber, the OIC would like to request leave to submit an application on the scope of territorial jurisdiction in the Situation in Palestine arguing, as stated by the Prosecutor's Article 19(3) Request, that the territory of the State of Palestine comprises of the West Bank, including East Jerusalem, and the Gaza Strip.

II. Background and Expertise

4. The Organization of Islamic Cooperation ('OIC') is the second largest inter-governmental organization after the United Nations with a membership of 57 states, including the State of Palestine as a full-fledged member, spread over four continents.

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5. The OIC is the collective voice of the Muslim world. It endeavors to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among peoples of the world.
6. The OIC was established upon a decision of the historical summit of Rabat in Kingdom of Morocco, on 25 September 1969 following the criminal arson attack on Al-Aqsa Mosque in occupied East Jerusalem.
7. Palestine has been and remains a standing core issue on the agenda of OIC.
8. The Charter of the OIC encourages Member Parties to adhere to their commitments to the principles of the United Nations Charter and international law; to preserve Islamic values of peace, justice, and human dignity; to respect, safeguard, and defend the self-determination, sovereignty, and territorial integrity of all Member States; and to 'support the struggle of the Palestinian people, who are presently under foreign occupation, and to empower them to attain their inalienable rights, including right to self-determination'.⁴
9. In its efforts to concretize and institutionalize the Islamic world's vision and role as to what it could offer – at the Islamic States' level – for the benefit of the cause of Palestine and Al Quds Al Sharif/ Jerusalem, the OIC has been consistent in reaffirming the inalienable rights of the Palestinian people and calling for a peaceful resolution to the Question of Palestine, as envisaged in the 290 relevant OIC Resolutions and pronouncements on Palestine, in accordance with international law and UN Resolutions.

10. In congruence, the OIC Council of Foreign Ministers mandated a department within the OIC General Secretariat dedicated to Palestine and Al Quds Al Sharif/Jerusalem, to focus on several objectives including upholding international legitimacy, OIC's decisions and its role within political, human rights-driven, and legal frameworks in any action process at the international level concerning Al Quds / Jerusalem.
11. The OIC aims at exerting every effort to achieve a peaceful solution to the Question of Palestine through implementing UN Resolutions that call on Israel to end its occupation of the Palestinian territory occupied since 1967, which comprises of the West Bank, including East Jerusalem, and the Gaza Strip, and extending active support for the Palestinian people's right to self-determination and to achieve their independence from occupation.
12. For these reasons, the OIC believes that its input would be beneficial to the Chamber as it will provide an exceptional legal analysis on the question of the territorial jurisdiction of the ICC in the Situation in Palestine.

III. Summary of the Submission

13. If granted leave, the OIC intends to argue that as a consequence of historic developments, today the territory of the State of Palestine comprises of the West Bank, including East Jerusalem, and the Gaza strip, which were occupied by Israel in 1967.
14. The Submission will highlight the historical aspects of the Question of Palestine and the injustices the Palestinian people have been subject to dating back to issuing of the Balfour Declaration in 1917, the Mandate Authority, and

the Partition Plan, which determined the historical founding contours of the State of Palestine and Palestinian sovereignty rights.

15. Moreover, the submission will affirm that the State of Palestine has sovereignty over the territory of the State of Palestine. It is abundantly clear that as a matter of international law, the territory of the State of Palestine is recognized to consist of the West Bank, including East Jerusalem, and the Gaza Strip, as defined by the pre-1967 border, also known as the 1949 Armistice Lines.
16. The aforementioned territory of the State of Palestine has been endorsed by venerable United Nations resolutions, international organizations, as well as the Advisory Opinion of the International Court of Justice on the Wall, and many others that showed the broad international consensus on the territorial jurisdiction of the State of Palestine.
17. The submission will lay out the historical and legal contours of Palestine, as a sovereign State, starting from Mandate Palestine, to the United Nations Resolution 181 of 1947, the status of Jerusalem, to Israel's occupation of the West Bank, including East Jerusalem, and the Gaza Strip in 1967.

IV. Conclusion

18. Given the OIC's expertise on the matter before the Chamber, it respectfully submits leave to submit observations that will demonstrate the historical and legal contours of the territory of the State of Palestine, and thus provide proficient assistance to the Chamber in their ruling of the Prosecutor's request..

[Enter name and title of person signing]
on behalf of
The Organization for Islamic Cooperation



Amb. Samir Bakr Diab
Assistant Secretary General for Palestine and Al-Quds Affairs

13th February 2020

Jeddah, Kingdom of Saudi Arabia