



Original: **English**

No.: **ICC-01/18**
Date: **28 May 2025**

PRE-TRIAL CHAMBER I

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

SITUATION IN THE STATE OF PALESTINE

Public

Decision on the conduct of proceedings and other procedural matters related to ‘Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute’

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

State of Israel

State of Palestine

☐ Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☒ Victims Participation and
Reparations Section

☒ Other

European Centre for Law & Justice

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’) hereby issues directions on the conduct of the proceedings following the challenge to the Court’s jurisdiction (‘Israel’s Request’)¹ pursuant to article 19(2) of the Rome Statute (the ‘Statute’), brought by the State of Israel (‘Israel’), and the ‘Judgment on the appeal of the State of Israel against Pre-Trial Chamber I’s “Decision on Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute”’ (the ‘Judgment’).²

I. Procedural history

1. On 23 September 2024, Israel’s Request was submitted.
2. On 21 November 2024, the Chamber rejected Israel’s Request (the ‘Decision on Israel’s Request’) as premature.³
3. On the same date, the Chamber issued warrants of arrest against a number of individuals, including Benjamin Netanyahu and Yoav Gallant.⁴
4. On 27 November 2024, Israel filed a notice of appeal against the Decision on Israel’s Request before the Appeals Chamber pursuant to article 82(1)(a) of the Statute,⁵ and Israel submitted its appeal brief against the Article 19(2) Decision on 13 December 2024.⁶
5. On 24 April 2025, the Appeals Chamber issued the Judgment.⁷
6. On 1 May 2025, the Registry transmitted to the Chamber a request for authorisation to submit *amicus curiae* observations from the European Centre for Law & Justice (the ‘ECLJ Request’) pursuant to rule 103 of the Rules of Procedure and Evidence (the ‘Rules’).⁸

¹ Public Redacted version of “Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute”, 23 September 2024, ICC-01/18-354-AnxII-Corr.

² ICC-01/18-422.

³ Decision on Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute, ICC-01/18-374.

⁴ See Press release, Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant.

⁵ Notice of Appeal of “Decision on Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute” (ICC-01/18-374), ICC-01/18-386.

⁶ Appeal of “Decision on Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute” (ICC-01/18-374), ICC-01/18-402.

⁷ Judgment on the appeal of the State of Israel against Pre-Trial Chamber I’s “Decision on Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute”, ICC-01/18-422.

⁸ ICC-01/18-424-Anx.

7. On 5 May 2025, the Prosecution filed the ‘Prosecution’s observations regarding the procedure to be followed following the issuance of the warrants of arrest against Benjamin Netanyahu and Yoav Gallant and the Appeal Judgment ICC-01/18-422 OA2’ (the ‘Prosecution’s Observations’).⁹

8. On 9 May 2025, Israel filed the ‘Request to Have Warrants Withdrawn or Vacated and Response to Prosecution Observations dated 5 May 2025’ (‘Israel’s Additional Requests’) and requested to (i) withdraw, vacate or declare of no force or effect the warrants of arrest against Mr Netanyahu and Mr Gallant; and (ii) declare that the Prosecution must suspend its investigation into the *Situation in the State of Palestine*.¹⁰

9. On 21 May 2025, the Prosecution responded to Israel’s Additional Requests.¹¹

10. On 23 May 2025, the Registry transmitted to the Chamber¹² a communication by the State of Palestine (‘Palestine’), requesting to be notified of all challenges to the Court’s jurisdiction pursuant to article 19(2) of the Statute.¹³

II. Conduct of Proceedings

11. The Appeals Chamber reversed the Decision on Israel’s Request and remanded the matter to this Chamber for it to address the substance of Israel’s Request, as part of which the Chamber is tasked with determining the applicable legal basis under article 19(2) of the Statute.¹⁴ In light of the reversal of the Decision on Israel’s Request and the Appeals Chamber’s instructions, Israel’s Request is again before the Chamber.

12. The Chamber notes that Israel’s Request is brought on the basis of article 19(2) of the Statute. Without prejudice to the Chamber’s assessment as to the correct legal qualification of the matters raised in Israel’s Request, the Chamber will be guided by the procedural framework

⁹ ICC-01/18-425.

¹⁰ Request to Have Warrants Withdrawn or Vacated and Response to Prosecution Observations dated 5 May 2025, ICC-01/18-426.

¹¹ Prosecution’s response to Israel’s “Request to Have Warrants Withdrawn or Vacated and Response to Prosecution Observations dated 5 May 2025”, ICC-01/18-431.

¹² Registry transmission of a “Communication by the State of Palestine requesting notification pursuant to Rule 59”, ICC-01/18-432.

¹³ Communication by the State of Palestine requesting notification pursuant to Rule 59, ICC-01/18-432-Anx.

¹⁴ Judgment, para. 64.

for dealing with challenges to the jurisdiction of the Court in the cases against Mr Netanyahu and Mr Gallant.¹⁵

13. The Chamber notes article 19 of the Statute and rules 58(2), (3) and 59 of the Rules and regulation 38(2) of the Regulations of the Court (the ‘Regulations’). Pursuant to rule 58 of the Rules, the Chamber enjoys broad, but not unlimited, discretion to decide on the procedure to be followed in accordance with the particular circumstances of each challenge.¹⁶ In particular, the Chamber sees no legal basis for altering the ‘deadline for those with standing to bring a jurisdictional challenge in relation to the cases against [Mr] NETANYAHU and [Mr] GALLANT’, as requested by the Prosecution.¹⁷

14. Pursuant to rule 58(3) of the Rules, the Prosecution is entitled to submit observations on any request raising a jurisdictional challenge. The Chamber notes that the Prosecution had briefly responded to Israel’s Request when it was filed (the ‘Initial Response’), arguing that it should be dismissed *in limine*, without addressing the substance of Israel’s arguments.¹⁸ In the Initial Response, the Prosecution also stated that it ‘stands ready to provide further submissions if this would assist the Chamber.’¹⁹ As the Chamber considered Israel’s Request to be premature, it did not invite further submissions from the Prosecution or other entities.

15. The Chamber is not persuaded by Israel’s argument for disallowing further submissions from the Prosecution on the basis that the latter chose not to address the substantive aspects of Israel’s Request in the Initial Response. The Chamber considers it important to be adequately briefed on the issues before it, which includes receiving submissions from the Prosecution on all aspects of Israel’s Request in accordance with rule 58(2) and (3) of the Rules. Accordingly, the Prosecution is invited to submit observations on Israel’s Request.

¹⁵ Judgment, paras 3, 64.

¹⁶ Pre-Trial Chamber II, *Prosecutor v Francis Kirimi Muthaura et al*, Decision on the Conduct of the Proceedings Following the Application of the Government of Kenya Pursuant to Article 19 of the Rome Statute, ICC-01/09-02/11-40, 4 April 2011, para. 8; Pre-Trial Chamber I, Decision on the Conduct of the Proceedings Following the “Application on behalf of the Government of Libya, pursuant to Article 19 of the Statute”, ICC-01/11-01/11-134, 4 May 2012, para 10; Pre-Trial Chamber I, Decision on the conduct of the proceedings following the “Application on behalf of the Government of Libya relating to Abdullah Al-Senussi pursuant to Article 19 of the ICC Statute”, ICC-01/11-01/11-325, 6 April 2013, para. 7.

¹⁷ Prosecution Observations, para. 15.

¹⁸ Prosecution Response to “Israel’s challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute” – ICC-01/18-354-SECRET-Exp-Anx-I-Corr, 27 September 2024, ICC-01/18-357.

¹⁹ Initial Response, para. 27.

16. Furthermore, the combined effect of the second sentence of article 19(3) of the Statute and rule 59(1) and (3) of the Rules is that those who have referred a situation pursuant to article 13 of the Statute and the victims who have already communicated with the Court in relation to a case or their legal representatives may also submit observations concerning a jurisdictional challenge.²⁰ Thus, Palestine as the State which has referred the situation to the Court, and victims who have so far communicated with the Court in relation to the cases against Mr Netanyahu and Mr Gallant (the ‘Victims’) are entitled to submit observations on (i) the applicable legal basis under article 19(2) of the Statute; and (ii) the substance of Israel’s contentions as set out in Israel’s Request.

17. The Chamber will separately address Israel’s Additional Requests. These issues should therefore not be addressed in the abovementioned observations.

18. Pursuant to rule 59 (1) and (2) of the Rules, the Registrar shall provide Palestine and the Victims, in a manner consistent with the duty of the Court regarding the confidentiality of information, the protection of any person and the preservation of evidence, with a summary of the grounds on which the jurisdiction of the Court or the admissibility of the case has been challenged.²¹ In this regard, the Chamber considers that the transmission by the Registry of the public redacted version of the Israel’s Request to Palestine and the Victims satisfies this requirement. The Chamber observes, in this regard, that the redactions have no bearing on the matters currently before the Chamber.

19. To facilitate the submission of the Victims’ observations, the Chamber instructs the Victims Participation and Reparations Section to contact the relevant legal representatives. The legal representatives of the Victims are encouraged to consolidate their observations in one joint filing.

²⁰ See also Pre-Trial Chamber II, *Prosecutor v Francis Kirimi Muthaura et al*, Decision on the Conduct of the Proceedings Following the Application of the Government of Kenya Pursuant to Article 19 of the Rome Statute, 4 April 2011, ICC-01/09-02/11-31, para. 12; Pre-Trial Chamber I, *Prosecutor v. Saif Al-Islam Gadaffi and Abdullah Al-Senussi*, Decision on the Conduct of the Proceedings Following the “Application on behalf of the Government of Libya pursuant to Article 19 of the Statute”, 4 May 2012, ICC-01/11-01/11-134, para.12; Pre-Trial Chamber I, Decision on the conduct of the proceedings following the “Application on behalf of the Government of Libya relating to Abdullah Al-Senussi pursuant to Article 19 of the ICC Statute”, 6 April 2013, ICC-01/11-01/11-325, para. 12; Pre-Trial Chamber I, *Prosecutor v. Rodrigo Roa Duterte*, Order Setting time limits for observations in relation to the ‘Defence Challenge with Respect to Jurisdiction’ (ICC-01/21-01/25-121), 7 May 2025, ICC-01/21-01/25-128, para. 2.

²¹ ICC-01/18-354-AnxII-Corr.

20. In the interest of being comprehensively briefed, the Chamber also considers it appropriate for Israel to file a consolidated reply to the observations of Palestine, the Victims, and the Prosecution.

21. In accordance with regulation 38(2)(c) of the Regulations, none of the observations aforementioned herein shall exceed 60 pages.

22. Finally, the Chamber notes that the European Centre for Law & Justice filed a request for leave to submit *amicus curiae* observations on the interpretation of article 19 of the Statute pursuant to rule 103 of the Rules.²² This organisation has provided observations addressing similar issues on two previous occasions in the present situation.²³

23. Considering that the Chamber has, in 2020 and 2024, already received a large number of submissions from States, individuals, organisations, and representatives of victims on largely the same issues now raised in Israel's Request, the Chamber considers that it would not be assisted, at this stage, by further observations from the ECLJ or other *amici curiae*. The ECLJ Request is therefore rejected.

24. This is without prejudice to the Chamber's discretion to invite additional submissions pursuant to rule 103 of the Rules at a later stage, should it consider this desirable for the proper determination of matters before it.

²² ECLJ Request.

²³ Observations with respect to the Situation in the State of Palestine on behalf of the European Centre for Law and Justice, Situation in the State of Palestine, 13 March 2020, ICC-01/18-70 and Corrected version of the Observations with respect to the Situation in Palestine on behalf of the European Centre for Law and Justice, Registration number ICC-01/18-260, 1 October 2024, ICC-01/18-260-Corr.

FOR THESE REASONS, THE CHAMBER HEREBY

INVITES the Prosecution, Palestine, and the Victims to submit written observations on Israel's Request no later than **Friday, 27 June 2025**;

INVITES Israel to submit a consolidated reply to the observations on Israel's Request submitted by the Prosecution, Palestine and the Victims no later than **Friday, 11 July 2025**;

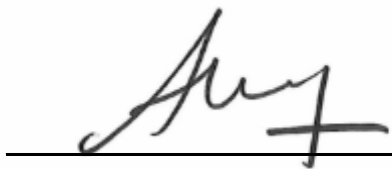
INSTRUCTS the Victims Participation and Reparations Section to contact the legal representatives of the Victims to facilitate the submission of their observations;

INSTRUCTS the Registry to transmit the public redacted version of Israel's Request to Palestine and the Victims; and

REJECTS the European Centre for Law & Justice's request for leave to submit *amicus curiae* observations.



Judge Nicolas Guillou
Presiding Judge



Judge Reine Adélaïde Sophie Alapini-Gansou



Judge Beti Hohler

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

Dated this Wednesday 28 May 2025

At The Hague, The Netherlands