



Original: **English**

No.: **ICC-01/18**  
Date: **25/07/2025**

**THE APPEALS CHAMBER**

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

**SITUATION IN THE STATE OF PALESTINE**

**Public**

**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"**

**Source:** The State of Israel

Document 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

Office of the Attorney General of Israel

☐ Amicus Curiae

## REGISTRY

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Registrar

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and  
Reparations Section

☐ Other

## I. INTRODUCTION

1. Israel hereby files its consolidated response to 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” (“First Request”);<sup>1</sup> and 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” (“Second Request”);<sup>2</sup> (together – “the Victims’ Requests”).<sup>3</sup>

2. The Victims’ Requests seek authorization to file observations containing “the views and concerns of victims” directly to the Appeals Chamber rather than the usual process of providing representations to the Victims Participation and Reparations Section (“VPRS”) to transmit to the Court together with a summary report. The Victims’ Requests, which are signed by eight qualified victims Counsel, cite no precedent or other compelling or exceptional circumstances in support of the extraordinary nature of their request. Israel is not aware of any case law justifying the filing of direct observations by victims, after the conclusion of the briefing schedule, in the absence of previous victim participation in the underlying proceedings leading to the Impugned Decision. Israel therefore respectfully submits that the Victims’ Requests should be refused as they are unfounded and untimely.

## II. PROCEDURAL HISTORY

3. On 23 September 2024, Israel filed its Abridged Request for an Order Requiring an Article 18(1) Notice, and Staying Proceedings Pending Such a Notice.<sup>4</sup> The Prosecution responded on 27 September 2024.<sup>5</sup> Neither the OPCV nor any other individually represented victims sought leave to participate in the Article 18 proceedings before the Pre-Trial Chamber.

4. On 21 November 2024, the Pre-Trial Chamber rejected the Request.<sup>6</sup>

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<sup>1</sup> 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-AnxI](#), 15 July 2025 (“First Request”).

<sup>2</sup> 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-AnxI](#), 21 July 2025 (“Second Request”).

<sup>3</sup> This filing is without prejudice to Israel’s position regarding the Court’s lack of jurisdiction in respect to the above-captioned Situation, or to Israel’s status as a State not Party to the Rome Statute.

<sup>4</sup> Abridged Request for an Order Requiring an Article 18(1) Notice, and Staying Proceedings Pending Such a Notice, [ICC-01/18-355-AnxI-Corr](#), 23 September 2024.

<sup>5</sup> Prosecution’s Response to Israel’s “Abridged Request for an Order Requiring an Article 18(1) Notice, and Staying Proceedings Pending Such a Notice” - ICC-01/18-355-SECRET-Exp-AnxI-Corr, [ICC-01/18-360](#), 27 September 2024.

<sup>6</sup> Decision on Israel’s request for an order to the Prosecution to give an Article 18(1) notice, [ICC-01/18-375](#), 21 November 2024 (“Impugned Decision”).

5. On 27 November 2024, Israel filed a Notice of Appeal before the Appeals Chamber,<sup>7</sup> as well as a Request for Leave to Appeal before the Pre-Trial Chamber.<sup>8</sup> The Prosecution responded on 29 November 2024,<sup>9</sup> and on 2 December 2024,<sup>10</sup> respectively. Neither the OPCV nor any other individually represented victims sought leave to respond to Israel's Notice of Appeal or Request for Leave to Appeal.
6. On 24 April 2025 the Appeals Chamber determined, by majority, that Israel's Article 18 appeal as of right was inadmissible.<sup>11</sup> On 14 May 2025 the Pre-Trial Chamber granted Israel leave to appeal.<sup>12</sup>
7. On 26 May 2025 Israel filed its Appeal Brief.<sup>13</sup> The Prosecution responded on 9 June 2025.<sup>14</sup> Israel filed a request for leave to reply to the Prosecution Response on 13 June 2025.<sup>15</sup> The Prosecution responded, requesting the Appeals Chamber to dismiss Israel's request on 18 June 2025.<sup>16</sup> The Appeals Chamber granted Israel's request for leave to reply on 9 July 2025.<sup>17</sup> Israel filed its Reply on 16 July 2025.<sup>18</sup>
8. On 16 July 2025 the First Request was filed by three teams of Legal Representatives of Victims (signed by five Counsel) on behalf of "hundreds of Palestinian victims".<sup>19</sup>

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<sup>7</sup> Notice of 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-01/18-385](#), 27 November 2024.

<sup>8</sup> Request for leave to appeal "Decision on Israel's request for an order to the Prosecution to give an Article 18(1) notice", [ICC-01/18-387](#), 27 November 2024.

<sup>9</sup> Prosecution Request to Dismiss in limine Israel's "Notice of 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-01/18-391](#), 29 November 2024.

<sup>10</sup> Prosecution Response to Israel's "Request for leave to appeal 'Decision on Israel's request for an order to the Prosecution to give an Article 18(1) notice'", [ICC-01/18-394](#), 2 December 2024.

<sup>11</sup> Decision on the admissibility of the appeal of the State of Israel against Pre-Trial Chamber I's Decision on Israel's request for an order to the Prosecution to give an Article 18(1) Notice, [ICC-01/18-423](#), 24 April 2025.

<sup>12</sup> 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](#), 14 May 2025, paras 17-20.

<sup>13</sup> 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](#), 26 May 2025.

<sup>14</sup> 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](#), 9 June 2025.

<sup>15</sup> 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' (ICC01/18-375)", [ICC-01-18-441](#), 13 June 2025.

<sup>16</sup> Prosecution's Response to Israel's 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-01/18-443](#), 18 June 2025.

<sup>17</sup> 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](#), 9 July 2025.

<sup>18</sup> 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](#), 16 July 2025.

<sup>19</sup> [First Request](#), para. 2.

9. On 22 July 2025 the Second Request was filed by a further team of Legal Representatives of Victims (signed by three Counsel) on behalf of unspecified victims.<sup>20</sup>

### III. SUBMISSIONS

10. Israel respectfully submits that the Appeals Chamber should not grant the Victims' Requests because:

- a. they have not been filed in a timely fashion and granting them would disrupt the already completed briefing schedule for the appeal; and
- b. no victims have previously participated (or requested to participate) in the Article 18 proceedings before the Pre-Trial Chamber or the Appeals Chamber; and
- c. they seek modalities for direct participation outwith those ordinarily granted to individual victims in Article 18 appeal proceedings.

#### **A. The Victims' Requests are not timely and, if granted, would be severely disruptive of the (already completed) briefing schedule for the appeal**

11. The Victims' Requests have been filed so late that the written briefing schedule for the Article 18 appeal has now been fully completed. Contrary to the practice in previous cases, where participation requests were filed by individual victims within days of the Notice of Appeal or Appeal Brief and the representations were filed just prior to the Appeals Brief or Prosecution Response,<sup>21</sup> the First Request has been filed 7.5 months after Israel's Notice of Appeal, more than 7 weeks after the Appeal Brief, and more than 5 weeks after the Prosecution Response. Although the Second Request acknowledges that the "procedure is advanced"<sup>22</sup> no explanation or justification has been provided for the delay. Granting participation at this extremely late juncture would not be in the "balance of interests"<sup>23</sup> as it would necessarily entail re-opening the briefing schedule in order to allow an opportunity for responses to victim representations.

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<sup>20</sup> [Second Request](#).

<sup>21</sup> In the *Venezuela* Article 18 Appeal, the OPCV request was filed 4 days after the Notice of Appeal and the OPCV submissions were filed 21 days after the Appeal Brief. In those proceedings, the latest victim request was filed 11 days prior to the Appeal Brief and the representations were filed prior to the expiry of the time limit for the Prosecutor's Response: *Situation in the Bolivarian Republic of Venezuela I*, Request to appear before the Appeals Chamber pursuant to regulation 81(4) of the Regulations of the Court, [ICC-02/18-47](#), 7 July 2023; *Situation in the Bolivarian Republic of Venezuela I*, Decision on requests for victims' involvement, [ICC-02/18-60](#), 24 August 2023, ("*Venezuela* Decision on Victim Participation"), paras 3-11.

Likewise, in the *Philippines* Article 18 Appeal, the OPCV and victims filed requests 18 days after the Notice of Appeal and 17 days prior to the Appeal Brief: *Situation in the Republic of the Philippines*, Decision on requests for victims' involvement and access to filings, [ICC-01/21-66](#), 21 March 2023, ("*Philippines* Decision on Victim Participation"), paras 4-5, 7, 9-10, 12, 18, 24.

<sup>22</sup> [Second Request](#), para. 12.

<sup>23</sup> [Second Request](#), para. 12.

**B. No victims have previously participated in the underlying Article 18 proceedings which have been extant since 23 September 2024**

12. Despite being signed by eight qualified victims Counsel, the Victims' Requests cite no precedent, or other compelling or exceptional circumstances, in support of their extraordinary request to participate in interlocutory appellate proceedings where the victims have had no prior participation in the underlying proceedings which gave rise to the appeal. Indeed, Israel is not aware of any case law or other circumstances which could be relied upon to properly substantiate the Victims' Requests. Although individual victims have been permitted to provide representations in relation to Article 18 appeals in the past, consistently with the established criteria for victim participation in interlocutory appeals<sup>24</sup> this has only ever occurred in circumstances where victims have previously participated in the Pre-Trial Chamber Article 18 litigation.<sup>25</sup> There has been no attempt by any victims in this situation to participate in the Pre-Trial Chamber Article 18 proceedings leading to the Impugned Decision, despite these proceedings being ongoing since 23 September 2024. The Observations cited by the First Request which were filed in relation to proceedings concerning Article 19 in 2020, 2024 and 2025<sup>26</sup> bear no relationship to the matters presently under consideration by the Appeals Chamber in this interlocutory appeal. It would be wholly irregular and inappropriate<sup>27</sup> to authorise victim participation on appeal in circumstances where victims have had no involvement whatsoever in the proceedings that gave rise to that appeal.

**C. The Victims' Requests seek modalities for participation outwith those ordinarily granted to individual victims in Article 18 appeal proceedings**

13. The Victims' Requests seek to provide observations direct to the Appeals Chamber in place of the usual procedure for participation by individual victims whereby 'representations' are made to the VPRS which then collates and transmits these 'representations' to the Appeals Chamber together with a VPRS 'summary report' designed to assist the Appeals Chamber.<sup>28</sup> No precedent has been cited in support of the alternative direct proposal for participation in

<sup>24</sup> *Prosecutor v. Gbagbo & 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)", [ICC-02/11-01/15-172](#), 31 July 2015 ("Gbagbo Decision on victims participation"), paras 17-19.

<sup>25</sup> [Philippines Decision on Victim Participation](#), paras 4-5, 7, 9-10, 12, 18, 24; *Situation in the Bolivarian Republic of Venezuela I*, Decision authorising the resumption of the investigation pursuant to article 18(2) of the Statute, [ICC-02/18-45](#), 27 June 2023, paras 7, 9, 17-19; *Situation in the Bolivarian Republic of Venezuela I*, Decision on the OPCV's "Request to appear before the Appeals Chamber pursuant to regulation 81(4) of the Regulations of the Court", [ICC-02/18-54](#), 21 July 2023, para. 7; [Venezuela Decision on Victim Participation](#), paras 3-11.

<sup>26</sup> [First Request](#), paras 7-9.

<sup>27</sup> Cf. [Second Request](#), para. 11; [First Request](#), para. 15. [Gbagbo Decision on victims participation](#), para. 18.

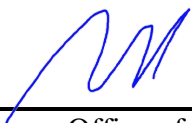
<sup>28</sup> *Situation in the Bolivarian Republic of Venezuela I*, Decision on requests for victims' involvement, [ICC-02/18-60](#), 24 August 2023, para. 14; *Situation in the Republic of the Philippines*, Decision on requests for victims' involvement and access to filings, [ICC-01/21-66](#), 21 March 2023, para. 18.

either of the Victims' Requests. The only rationale advanced for this irregular procedure is that it would be the "fastest way" rather than "going through a consultation process"<sup>29</sup> and that the usual VPRS process "would take more time to organize".<sup>30</sup> It therefore appears that the proposal to submit observations directly to the Appeals Chamber has been devised to avoid the usual VPRS process because of the significantly delayed nature of the Requests.

#### **IV. CONCLUSION AND RELIEF SOUGHT**

14. For the reasons above, Israel requests that the Victims' Requests should be refused.

Respectfully submitted:

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Dr Gilad Noam, Office of the Attorney-General of Israel

Dated this 25<sup>th</sup> July 2025

At Jerusalem, Israel

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<sup>29</sup> [Second Request](#), para. 11.

<sup>30</sup> [First Request](#), para. 13.