

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: ICC-01/18  
Date: **23 December 2019**

**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 with Public Annexes A and B**

**Supplementary information to the Prosecution request pursuant to article 19(3) for  
a ruling on the Court's territorial jurisdiction in Palestine**

**Source:** Office of the Prosecutor

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

**The Office of the Prosecutor**  
Ms Fatou Bensouda, Prosecutor  
Mr 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**

**States Representatives**

**Amicus Curiae**

## **REGISTRY**

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**Registrar**  
Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**  
Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations Section**  
Mr Philipp Ambach

**Other**

## Introduction

1. The Prosecution hereby provides supplementary information to the Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine.<sup>1</sup> This supplementary information is relevant to the request now before the Chamber, and is submitted in the interest of completeness. The information is based on a press release, reviewed on 20 December 2019, issued by the Israel Ministry of Foreign Affairs,<sup>2</sup> which provides hyperlinks to a legal memorandum issued by the Office of the Attorney General of the State of Israel, Public Annex A, and a synopsis paper issued by the Office of the Legal Advisor of the Ministry of Foreign Affairs of the State of Israel, Public Annex B.

## Submissions

2. In its request for a ruling pursuant to article 19(3), the Prosecution noted that during the course of the preliminary examination it had interactions with representative of both the Government of Palestine and the Government of Israel.<sup>3</sup> In this context, it had sought to understand their views on a number of issues of relevance to its assessment, including on the preconditions to the exercise of jurisdiction. In this context, the Prosecution noted that while it understood that each had developed detailed views on the matter, and had sought to reflect those as part of its request, it would more effectively advance the proceedings if the Chamber could receive those respective positions directly.<sup>4</sup> The Prosecution had also separately provided advance notice to the Palestinian and the Israeli authorities last week that it would be filing a request before the end of the year seeking a judicial ruling.

3. The Prosecution informs the Chamber that on 20 December 2019 the Israel Ministry of Foreign Affairs published two documents on the question of the Court's

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<sup>1</sup> ICC-01/18-9.

<sup>2</sup> Israel Ministry of Foreign Affairs, MFA Press Room: [The International Criminal Court's lack of jurisdiction over the so-called "situation in Palestine"](#), 20 December 2019, with embedded hyperlinks to both documents.

<sup>3</sup> ICC-01/18-9, para. 39.

<sup>4</sup> *Ibid.*

jurisdiction with respect to the situation in Palestine: a legal memorandum by the Office of the Attorney General of the State of Israel and a synopsis paper by the Office of the Legal Advisor of the Ministry of Foreign Affairs of the State of Israel. Both were issued almost contemporaneous to the Prosecution's own request.<sup>5</sup>

4. The Prosecution believes it necessary to place these documents in the record of the situation for completeness to enable the Chamber to properly consider all views which might assist it in its determination. This is particularly so in circumstances where such views might not otherwise be properly brought before the Chamber.<sup>6</sup>

5. The Prosecution reaffirms its opinion that having an open, participatory process to settle this question will ensure a full exposition of the spectrum of relevant perspectives, facilitate the Chamber's proper assessment and evaluation thereof, and importantly, substantially assist its determination of the matter.

### Conclusion

6. For all the reasons above, the Prosecution provides the aforementioned documents to the Chamber



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Fatou Bensouda, Prosecutor

Dated this 23<sup>rd</sup> day of December 2019

At The Hague, The Netherlands

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<sup>5</sup> According to the press release, these documents were prepared by a joint team of the Ministry of Foreign Affairs, the Ministry of Justice and the National Security Council. The memorandum of the Attorney General's Office is described as the product of a collaborative inter-agency effort, including personnel from the Ministry of Justice, the Ministry of Foreign Affairs, and the National Security Council, headed by the Deputy Attorney General for International Law, Dr. Roy Schöndorf, and the Legal Advisor of the Ministry of Foreign Affairs, Dr. Tal Becker; in full coordination with Israel's senior political echelon.

<sup>6</sup> The Prosecution recalls that the State of Israel, as a non-Party State, has taken the position, as set out in the legal memorandum, that this Court has no competence to determine this particular issue or to be seized of this situation.