

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No. ICC-01/18
Date: **20 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

Application for extension of pages for request under article 19(3) of the Statute

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

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. Simultaneous with this application, the Prosecution has filed a request for a ruling regarding the Court's jurisdiction in this situation, pursuant to article 19(3) of the Rome Statute ("Request"). This action marks the end of the Prosecutor's preliminary examination in this situation, and she considers that the requirements of article 53(1) are satisfied for her to open an investigation once the Request is resolved.
2. In ordinary circumstances, according to regulation 38(3)(b) of the Regulations of the Court, a request under article 19(3) shall not exceed 30 pages. However, mindful of the unique and complex factual and legal circumstances in this situation, and the significance of the requested ruling on the Court's exercise of jurisdiction, the Prosecution requests an extension of pages to a maximum of 110 pages.
3. Exceptionally, the Prosecution has filed this application at the same time as the Request. While mindful that this will not generally be appropriate, the Prosecution seeks the indulgence of the Pre-Trial Chamber in light of the unique circumstances. In particular, it is anticipated that the announcement of an imminent Request under article 19(3) will attract considerable public interest and speculation, and that this is best resolved by making the Request publicly available as soon as possible. The Prosecution also takes into account the absence of prejudice to any other Party or participant. The Prosecution of course stands ready to abide by any decision of the Pre-Trial Chamber with regard to this application.

Submissions

4. The Prosecution submits that there are "exceptional circumstances" in this situation, in the meaning of regulation 37(2), which justify the extension of the page limit for the Request.

5. First, in its core subject-matter, the Request addresses an issue which is not only highly significant to any exercise of jurisdiction over this situation by the Court, but touches upon matters which are perhaps uniquely controversial within the international community. As such, it is legally and factually complex. It has also been necessary for the Prosecution to frame the Request in a way which, it is hoped, will provide a suitable foundation for the fair and expeditious resolution of the necessary issues for the limited purposes of this Court.

6. Second, since the application of article 19(3) of the Statute is still relatively novel—and mindful that the Prosecution’s prior application under this provision gave rise to differing views among the members of this Chamber¹—it has also been necessary for the Prosecution to address the procedural basis on which it files the Request.

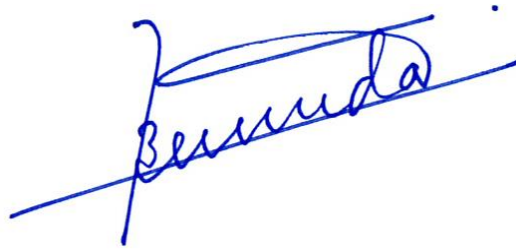
7. The Prosecution does not oppose any consequential extensions to the page limits which may be granted to victims seeking to make representations on this matter under article 19(3), or to any other person or entity which may be invited by the Pre-Trial Chamber to participate in these proceedings, under rule 103.

Conclusion

8. For all the reasons above, the Prosecution requests the Pre-Trial Chamber to authorise the filing of the Request with a page limit not exceeding 110 pages.²

¹ See [ICC-RoC46\(3\)-01/18-37](#).

² Pursuant to regulation 36(2)(c) of the Regulations of the Court, the cover page and the notification page do not count in calculating the page limit.

A handwritten signature in blue ink, appearing to read 'Fatou Bensouda', is written over a horizontal line. The signature is stylized and slanted.

Fatou Bensouda, Prosecutor

Dated this 20th day of December 2019

At The Hague, The Netherlands