

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/18

Date: 13 February 2020

PRE-TRIAL CHAMBER I

Before

**Judge Peter Kovacs, Presiding Judge
Judge Marc Pierre Perrin de Brichambaut
Judge Reine Alapini-Ganso**

Request to Submit an *Amicus Curiae* brief pursuant to rule 103(1) of the Rules of Procedure and Evidence on the 'Prosecutions Request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine

Public

Request for Leave to Submit Amicus Curiae Observations by The Popular Conference of Palestinians Abroad (pursuant to Rule 103 of the Rules)

Source: The Popular Conference for Palestinians Abroad

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

The Office of the Prosecutor
Fatou Bensouda, Prosecutor
Mr James Stewart

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

Amicus Curiae

REGISTRY

Registrar
M. Peter Lewis

Counsel Support Section

Victims and Witnesses Unit
Mr Nigel Verrill

Detention Section

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

Other

1. Introduction

- 1.1. The Applicant, The Popular Conference for Palestinians Abroad (“The Conference”) requests leave to submit an Amicus Curiae brief pursuant to Rule 103(1) of the Rules of Procedure and Evidence on the ‘Prosecutions Request pursuant to Article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine.
- 1.2. The Conference seeks to make a submission in relation to the matter in question, the jurisdiction of the International Criminal Court (“ICC”) in Palestine.

2. Relevant Procedural History

- 2.1. On 22 January 2020, the Pre-Trial Chamber of ICC received the Prosecution request pursuant to Article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine.
- 2.2. On 28 January, the Pre-Trial Chamber issued an order setting the procedure and the schedule for the submission of observation on the Prosecutors’ request related to the scope of the ICC’s territorial jurisdiction in the Situation of the State of Palestine (“The Order”).
- 2.3. Within that order, at paragraph 17, an invitation has been made to organizations to submit Amicus Curiae briefs to assist with the question at hand.

3. Applicable Law

- 3.1. Rule 103(1) of the Rules of Procedure and Evidence of the ICC states:

“At any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organisation or person

to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.”¹

3.2. In addition, The Order in Paragraph 17 reads:

“In addition, other States, organisations and/or persons may submit applications for leave to file written observations by no later than 14 February 2020.”

3.3. It is therefore respectfully submitted that this application by the Conference falls within the applicable legal framework of the ICC.

3.4. This would also be in line with the ICC’s current practice,² and other persuasive decisions by other international courts and tribunals.

4. The Conference

4.1. The Popular Conference for Palestinians Abroad was set up in 2017. At its launch, it was attended by more than 6,000 delegates from over 60 countries, including countries from North America, South America, the Middle East, New Zealand and Australia.

4.2. The Conference is registered in Lebanon, Turkey and Canada and is in the process of being registered in the United Kingdom.

4.3. The Conference has branches and coordination committees in more than 15 countries.

4.4. The Conference brings together Palestinians abroad from across the world to address matters of human rights, accountability and justice.

4.5. The Conference has a dedicated legal committee, which includes lawyers and jurists who specialise and practice Palestinian, Israeli and international law, as well as the domestic legal systems in the countries which they reside in. The

¹ <https://www.icc-cpi.int/iccdocs/pids/legal-texts/rulesprocedureevidenceng.pdf>

² ICC-01/04-01/07, 7 March 2013

committee works on international law matters related to Palestine through research, analysis and advocacy.

- 4.6. The Conference in its first session and its legal committee are headed by the renowned Palestinian jurist and lawyer Dr Anis Kasim - an international lawyer based in Amman, Jordan. He obtained his PhD in International Law from the University of George Washington in 1973. He is a qualified and practicing lawyer in Jordan. He is the chief editor of the Palestine Yearbook of International Law. He also authored many articles, legal opinions and advice on various international law issues. He acted and advised the Palestinian legal team in the case before the International Court of Justice, resulting in its July 9, 2004 Advisory Opinion affirming the illegality of Israel's separation wall and its associated regime. He served as a judge at the supreme administrative court of the Arab League between 1981 and 1984. Dr Kassim also served as a consultant and legal advisor to the Palestinian delegation in the peace negotiations held in Madrid and Washington from 1991 to 1993.

5. Proposed Submissions

- 5.1. In line with the Prosecutor's Request, the Amicus would address the issue of jurisdiction and the matters feeding into it such as **statehood, sovereignty and occupation**. In particular, the Amicus will argue that the jurisdiction of the ICC could and should be exercised over The West Bank, Jerusalem and Gaza.

6. Conclusion

- 6.1. Considering the complexity of this matter, The Conference is in a unique position to contribute to the issue of jurisdiction given its particular understanding of the Palestinian context as well as having prominent legal jurists within a dedicated legal committee.
- 6.2. It is therefore respectfully submitted that The Conference should be granted leave to make their submissions.

For the Conference:

Dr. Anis F. Kassim

Solicitor the Conference:



Adnan Al-Sabah

Solicitor

Dated this 14th Day February 2020

At London, United Kingdom

TKD Solicitors

100 Crawford Street

Marylebone

London W1H 2HW

