Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No.: **ICC-01-18**
Date: **27 June 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 Document

Joint submissions on behalf of Palestinian Victims pursuant to Article 68(3) of the Rome Statute related to Article 19 proceedings

Source: **Legal Representatives of Victims**

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**
Specify the team(s) to be notified

☐ **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 Palestine
State of Israel

☐ **Amicus Curiae**

REGISTRY

Registrar
M. Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☒ **Victims Participation and Reparations Section**

☐ **Other**

I - INTRODUCTION 4
II - PROCEDURAL HISTORY 5
III - VICTIMS' STANDING TO SUBMIT THEIR VIEWS AND CONCERNS 10
IV – THE APPLICABLE LEGAL BASIS FOR ISRAEL'S CHALLENGE UNDER ARTICLE 19(2) OF THE STATUTE 12
A. Israel's Standing to Bring a Challenge to Jurisdiction at The Current Stage of Proceedings 12
i) Israel may invoke a jurisdictional challenge under article 19(2) of the Statute only after issuance of a warrant of arrest 14
ii) Notwithstanding the prematurity of Israel's challenge, the Chamber should now address it without delay 16
B. Israel's standing to bring a jurisdictional challenge at the current stage 17
C. The impact of the PTC I 2021 Decision under article 19(3) 19
V – THE NON-APPLICABILITY OF THE OSLO ACCORDS 23
A. The Court's jurisdiction is governed by article 12 of the Rome Statute, not by bilateral agreements 24
B. The Oslo Accords are not applicable treaties under article 21(1)(B) of the Rome Statute 29
C. The Oslo Accords do not exclude prescriptive jurisdiction 31
VI - JUSTICE DELAYED IS JUSTICE DENIED, THE IRREPERABLE PREJUDICE CAUSED TO THE VICTIMS OF GAZA 35
A. Victims' voices 36
B. Israel's use of the legal avenues to obstruct the delivery of justice 41
VII - RELIEF REQUESTED 45

I - INTRODUCTION

1. Pursuant to paragraph 16 of the 28 May 2025 Decision of the Pre Trial Chamber I ('PTC I' or 'Chamber'),[1] on behalf of hundreds of Palestinian individual victims residing in the Gaza Strip ('Gaza Victims' or 'Victims') who have suffered harm as a consequence of war crimes, crimes against humanity and genocide that fall within the Court's jurisdiction, the undersigned Victims' Legal Representatives ('LRVs') hereby respectfully submit the following joint written observations to assist the Chamber's deliberation on the issues remanded to it in the Appeals Chamber's Judgment of 24 April 2025 ('Appeal Chamber's Judgment'). [2]

2. In particular, the LRVs submit that whether or not Israel has standing to bring a jurisdictional challenge at this stage under article 19(2) of the Rome Statute ('Statute'), the existence of the preconditions to the exercise of the Court's jurisdiction was firmly settled by PTC I in 2021, with its Decision on the Prosecution request for a ruling on the Court's territorial jurisdiction in Palestine under article 19(3).[3] The Chamber must now address the matters remanded to it without delay and not allow Israel or others to further impede the progress of cases before the Court, as crimes under the Rome Statute continue to be perpetrated on a massive scale.

[1] Pre-Trial Chamber I, 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', 28 May 2025, ICC-01/18-435.
[2] Appeals Chamber, '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"', 24 April 2025, ICC-01/18-422.
[3] Pre-Trial Chamber I, 'Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143.

II - PROCEDURAL HISTORY

3. On 1 January 2015, the Government of Palestine lodged a declaration under article 12(3) accepting the jurisdiction of the Court for alleged crimes committed *"in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014"*.[4]

4. The next day, on 2 January 2015, the State of Palestine deposited its instrument of accession to the Statute with the Secretary-General of the United Nations ('UN').[5]

5. On 7 January 2015, the State of Palestine acceded to the Rome Statute.[6]

6. On 1 April 2015, the Rome Statute entered into force making the State of Palestine the 123rd State Party to the Statute,[7] accepting the jurisdiction of the ICC over alleged crimes falling within the scope of article 5 of the Statute. Since becoming a State Party, the State of Palestine has regularly participated in the annual sessions of the Assembly of State Parties ('ASP')[8] and was elected as a member of its Bureau.

7. On 28 May 2018, the State of Palestine referred the Situation in the State of Palestine to the Prosecutor pursuant to articles 13(a) and 14 of the Statute, specifying that *"[the] State of Palestine comprises the Palestinian Territory occupied in 1967 by Israel, as defined by the 1949 Armistice Line, [which] includes the West Bank, including East Jerusalem, and the Gaza Strip"*.[9]

8. On 5 February 2021, Pre-Trial Chamber I, in its previous composition, issued the 'Decision on the Prosecution's request pursuant to article 19(3) for a ruling

---

[4] Palestine Article 12(3) Declaration, 31 December 2014 (signed by Mahmoud Abbas as President of the State of Palestine); Letter from ICC Registrar to Mahmoud Abbas, 7 January 2015 (indicating confirmation of receipt on 1 January 2015 of the 31 December 2014 Declaration); Presidency, Decision assigning the situation in the State of Palestine to Pre-Trial Chamber I ('Presidency Decision'), Annex I, 24 May 2018, ICC-01/18-1-AnxI, p. 2.

[5] Secretary General of the United Nations, Depositary notification of Accession to the Rome Statute by the State of Palestine, 6 January 2015.

[6] ICC, The State of Palestine accedes to the Rome Statute, 7 January 2015.

[7] ICC, ICC welcomes Palestine as a new State Party, 1 April 2015.

[8] A representative of the Palestinian Minister of Foreign Affairs has addressed the annual session of the Assembly of States Parties, from the 14th Session (2015) to the 23rd Session (2024).

[9] Presidency Decision, Annex I, 24 May 2018, ICC-01/18-1-AnxI ; The State of Palestine, Referral by the State of Palestine Pursuant to Articles 13 (a) and 14 of the Rome Statute, 15 May 2018.

on the Court's jurisdiction in Palestine' ('PTC I's 2021 Decision'),[10] which confirmed that the State of Palestine is a State Party to the Rome Statute and that the Court's territorial jurisdiction extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East-Jerusalem.[11] It further held the Oslo Accords irrelevant in determining the scope of the Court's territorial jurisdiction in the State of Palestine, while acknowledging that the matter could be revisited at later stages of the proceedings under article 19 of the Rome Statute.[12]

9. On 3 March 2021, the Prosecutor opened an investigation into the situation in the State of Palestine.[13]

10. On 17 November 2023, the Prosecutor announced the extension of the investigation to "*the escalation of hostilities and violence since the attacks that took place on 7 October 2023*".[14]

11. On 20 May 2024, the Prosecutor announced the filing of several applications before Pre-Trial Chamber I for warrants of arrest for crimes committed in the Situation in the State of Palestine for three members of Hamas – Yahya Sinwar, Mohammed Diab Ibrahim Al-Masri, and Ismail Haniyeh – and two Israeli officials – Prime Minister Benjamin Netanyahu and the former Defence Minister Yoav Gallant.[15]

12. On 10 June 2024, the United Kingdom ('UK') filed a request to the PTC I to provide written observations on "*whether the Court can exercise jurisdiction over Israeli nationals, in circumstances where Palestine cannot exercise criminal jurisdiction*

[10] See also the following LRV's submissions : Situation in the State of Palestine, ICC PTC I, Submission on Behalf of Palestinian Victims Residents of the Gaza Strip with confidential Annex, 16 March 2020, ICC-01/18 ; Situation in the State of Palestine, ICC PTC I, Victims' observations on the Prosecutor's request for a ruling on the Court's territorial jurisdiction in Palestine, 16 March 2020, ICC-01/18-99.
[11] Situation in the State of Palestine, ICC PTC I, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143, para. 101.
[12] *Ibid*, para. 129.
[13] ICC, Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine, 3 March 2021.
[14] ICC, Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the Situation in the State of Palestine: receipt of a referral from five States Parties, 17 November 2023.
[15] ICC, Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine, 20 May 2024.

over Israeli nationals pursuant to the Oslo Accords" and related issues ('the UK's Request').[16]

13. On 27 June 2024, PTC I granted the UK leave to submit observations.[17] It later authorised States and NGOs to file amicus curiae briefs under Rule 103 of the Rules of Procedure and Evidence ('RPE') and permitted LRVs to present observations pursuant to article 68(3) of the Rome Statute.[18] The UK itself did not eventually file any observations, but around 60 other *amici curiae* did, and the majority of the observations submitted supported the existence of a legal basis for the ICC's jurisdiction over Israeli nationals. On 12 August 2024, the undersigned LRVs submitted observations on behalf of victims in the ongoing proceedings, in accordance with article 68(3) of the Statute and rule 93 of the Rules, as well as the Chamber's Orders of 22 July 2024 and 30 July 2024 (as redacted on 7 August 2024).[19]

14. On 23 September 2024, the State of Israel submitted a challenge to the jurisdiction of the Court pursuant to article 19(2)(c) of the Rome Statute ('Israel's Challenge').[20] Israel argued that the pre-conditions to the Court's jurisdiction had not been fulfilled as the act of accession by the State of Palestine "does not, of itself, fulfil the jurisdictional requirements that arise under article 12(2)"[21] and as "*the absence of sovereign Palestinian territory means that there is no "territory of" a State (within the meaning of article 12(2)(a)) over which the Court may exercise*

[16] Situation in the State of Palestine, ICC PTC I, Request by the United Kingdom for Leave to Submit Written Observations Pursuant to Rule 103, 10 June 2024, ICC-01/18-173-Red.
[17] Situation in the State of Palestine, ICC PTC I, Order deciding on the United Kingdom's request to provide observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence, and setting deadlines for any other requests for leave to file amicus curiae observations, 27 June 2024, ICC-01/18-173-Red.
[18] Situation in the State of Palestine, ICC PTC I, Request of the Legal Representatives of Victims to submit observations on behalf of Victims in the proceedings related to the Situation in the State of Palestine, 25 July 2024, ICC-01/18-252; Situation in the State of Palestine, ICC PTC I, Decision on requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence, 22 July 2024, ICC-01/18-249.
[19] See filings of the undersigned LRVs: Situation in the State of Palestine, ICC PTC I, Victims' Observations pursuant to Article 68(3) of the Rome Statute, 12 August 2024, ICC-01/18-330; Situation in the State of Palestine, ICC PTC I, Submission on behalf of Gaza Victims in the proceedings related to the Situation in the State of Palestine, 12 August 2024, ICC-01/18-335.
[20] Situation in the State of Palestine, ICC PTC I, 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.
[21] *Ibid*, para. 2.

its jurisdiction".[22] It further submitted that the Oslo Accords bar the Court from exercising its jurisdiction over the occupied territory.[23]

15. On 27 September 2024, the Prosecutor responded to Israel's Challenge, arguing that (i) the challenge was premature, as it was introduced prior to the issuance of a warrant of arrest in an *ex parte* proceeding, and (ii) Israel lacked standing to bring a challenge under article 19(2).[24]

16. On 28 October 2024, the undersigned LVSs filed additional observations on behalf of Victims in the proceedings in relation to article 19 of the Statute. [25]

17. On 21 November 2024, PTC I rejected Israel's Challenge to the Court's jurisdiction as premature, establishing that "*States are not entitled under the Statute to challenge jurisdiction of the Court on the basis of article 19 prior to the issuance of a warrant of arrest or a summons*"[26] ('Impugned Decision').

18. On the same day, the Chamber issued warrants of arrest against Israeli Prime Minister Netanyahu and former Defence Minister Gallant.[27]

19. On 27 November 2024, Israel filed a notice of appeal against the 'Decision on Israel's Request before the Chamber pursuant to article 82(1)(a) of the Rome Statute'.[28]

20. On 13 December 2024, Israel submitted its appeal against the Pre-Trial Chamber decision, regarding its standing to challenge the Court's jurisdiction under article 19(2) of the Rome Statute and related sub-issues.[29]

21. On 24 April 2025, the Appeals Chamber reversed the Decision on Israel's Challenge ('Appeals Chamber Judgment') and referred the matter back to the

[22] *Ibid*, para. 7.
[23] *Ibid*.
[24] Situation in the State of Palestine, ICC PTC I, Prosecution Response to "Israel's challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute", 27 September 2024, ICC-01/18-857.
[25] Situation in the State of Palestine, ICC PTC I, Submission on behalf of victims in Article 19 proceedings related to the Situation in the State of Palestine, 28 October 2024, ICC-01/18-369.
[26] Situation in the State of Palestine, ICC PTC I, Decision on Israel's challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute, 21 November 2024, ICC-01/18-374, para. 17.
[27] ICC, 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, 21 November 2024.
[28] Situation in the State of Palestine, ICC PTC I, 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), 27 November 2024, ICC-01/18-386.
[29] Situation in the State of Palestine, ICC PTC I, 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), 13 December 2024, ICC-01/18-402.

Pre-Trial Chamber for a ruling on the substance of the jurisdictional challenge.[30] It specifically found that:

(i) It was incumbent on the Pre-Trial Chamber to address why Israel was precluded from bringing a challenge under article 19(2) by virtue of article 12(2),

(ii) The Chamber had failed to adequately justify why the principle of *res judicata* barred Israel from challenging the Court's jurisdiction under article 19(2)(c),

(iii) The Chamber was required to consider the merits of Israel's Challenge under article 19(2)(b) and explain its decision to alter the legal basis of the submissions from article 19(2)(c) to article 19(2)(b).[31]

22. On 5 May 2025, the Prosecutor filed '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'.[32]

23. On 28 May 2025, PTC I issued the '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 on the conduct of proceedings'), allowing victims who have already communicated with the Court in relation to the cases against Netanyahu and Gallant to submit observations before 27 June 2025 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*".[33]

---

[30] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18 OA2.

[31] *Ibid*, paras. 59-60.

[32] Situation in the State of Palestine, ICC PTC I, 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, 5 May 2025, ICC-01/18-425.

[33] Situation in the State of Palestine, ICC PTC I, 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', 28 May 2025, ICC-01/18-435.

24. The Chamber further noted that it will be "guided by the procedural framework for dealing with challenges to the jurisdiction of the Court in the cases against Mr Netanyahu and Mr Gallant"[34] recalling the Appeals Chamber's view "*that it is for the Pre-Trial Chamber to determine the applicable legal basis under article 19(2) of the Statute for addressing Israel's jurisdictional challenge at the present stage of the proceedings*", and to provide any required further instructions on the procedure to be followed.[35]

III - VICTIMS' STANDING TO SUBMIT THEIR VIEWS AND CONCERNS

25. In its Decision on the conduct of proceedings, the Chamber invited "victims who have so far communicated with the Court in relation to the cases against Mr Netanyahu and Mr Gallant (the 'Victims')" to submit written observations and instructed the Victims Participation and Reparations Section to contact the LRVs of such victims to facilitate their submissions.[36]

26. Pursuant to Rule 59(1)(b) of the RPE the Registrar has an obligation to inform victims who have already communicated with the Court in relation to a case where a challenge has been brought under article 19 of the Statute.

27. The Court clarified that, read together, Rules 59 and 92 of the RPE establish that the notion of '*victims who have communicated with the Court*' includes victims who have either contacted the Court in accordance with article 15 of the Rome Statute or have applied to participate in the Court's proceedings by submitting the relevant form.[37]

---

[34] *Ibid*, para. 12.

[35] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18-422, paras. 3 and 64.

[36] Situation in the State of Palestine, ICC PTC I, 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', 28 May 2025, ICC-01/18-435, para. 16.

[37] Situation in Uganda, ICC PTC II, Decision on victims' applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06, 10 August 2007, ICC-02/04-101, para. 93.

28. The three undersigned LRV teams represent Palestinian Victims, including from the Gaza Strip, who have previously communicated with the Court and who have suffered direct harm as a result of the crimes falling within the scope of the cases against Mr Netanyahu and Mr Gallant. Therefore, the Victims here represented satisfy the criteria for victim status under Rule 85 of the RPE, and they fall within the category of *"victims who have so far communicated with the Court"* invited by the Chamber to submit observations in response to Israel's Challenge.

29. On 16 March 2020, one of the undersigned LRV teams submitted their views and concerns to the Chamber on behalf of the Gaza Victims.[38] On that occasion, the undersigned LRVs also filed to the Chamber their powers of attorney for one hundred and fifty-eight (158) Gaza Victims to the Court. On 12 August 2024, they submitted, on behalf of the Gaza Victims, their views and concerns in the framework of the proceedings on the Court's jurisdiction in the Situation in the State of Palestine.[39] On 28 October 2024, pursuant to article 19(3) of the Rome Statute, LRVs filed a joint submission in response to Israel's attempt to challenge the jurisdiction of this Court under article 19(2)(c) of the Statute.[40]

30. Another of the undersigned LRV teams submitted views and concerns to the Chamber on 16 March 2020 on behalf of 781 victims living in the West Bank, including East Jerusalem, and the Gaza Strip, having filed powers of attorney with the Registry.[41] On 12 August 2024, the LRVs submitted observations to the Chamber in the context of the UK's Request, also on behalf of victims residing in the West Bank and the Gaza Strip and including victims in Gaza who suffered harm as a result of crimes included in the arrest warrants against Netanyahu

[38] Situation in the State of Palestine, ICC PTC I, Submission on Behalf of Palestinian Victims Residents of the Gaza Strip with confidential Annex, 17 March 2020, ICC-01/18-112.

[39] Situation in the State of Palestine, ICC PTC I, Submission on behalf of Gaza Victims in the proceedings related to the Situation in the State of Palestine, 12 August 2024, ICC-01/18-335.

[40] Situation in the State of Palestine, ICC PTC I, Submission on behalf of victims in Article 19 proceedings related to the Situation in the State of Palestine, 28 October 2024, ICC-01/18-369.

[41] Situation in the State of Palestine, ICC PTC I,'Victims' observations on the Prosecutor's Request for a ruling on the Court's territorial jurisdiction in Palestine', 16 March 2020, ICC-01/18-99.

and Gallant.[42] The LRVs subsequently submitted to the Registry applications to participate in the proceedings on behalf of two Gaza victims.

31. On 23 May 2025, the third undersigned LRV submitted victim participation forms and powers of attorney to the VPRS on behalf of and with the consent of two Palestinian journalists - with the support of *Reporters sans frontières* - who suffered harm as a result of crimes included in the arrest warrants against Netanyahu and Gallant committed in the Gaza Strip.

32. The LRVs note that, by limiting the invitation to submit observations to victims associated with the cases of Mr Netanyahu and Mr Gallant, the Chamber has recognised that the proceedings have moved to a case stage. This conclusion stands despite the absence of a case record under Regulation 20(2) of the Regulations of the Registry, which does not determine the existence of a case.

IV – THE APPLICABLE LEGAL BASIS FOR ISRAEL'S CHALLENGE UNDER ARTICLE 19(2) OF THE STATUTE

A. Israel's Standing to Bring a Challenge to Jurisdiction at The Current Stage of Proceedings

33. The Chamber is called upon to "*directly and specifically address Israel's standing to bring a jurisdictional challenge under article 19(2)(c) of the Statute*."[43] In the Impugned Decision, the Chamber held that Israel's standing was not an issue at that stage, as the only issue was whether Israel was entitled to bring a jurisdictional challenge *before* the Chamber had ruled on the Prosecutor's applications for warrants of arrest, which it had not yet done at the time.[44]

34. The Appeals Chamber, in its Judgment on Israel's appeal - delivered after warrants of arrest had been issued - remanded the substance of Israel's

[42] Situation in the State of Palestine, ICC PTC I, Victims' Observations pursuant to Article 68(3) of the Statute', 12 August 2024, ICC-01/18-330.

[43] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18-422, para. 62.

[44] Impugned Decision, para. 16.

jurisdictional challenge back to the Chamber, stating that "*it is for the Pre-Trial Chamber to determine the applicable legal basis under article 19(2) of the Statute for addressing Israel's jurisdictional challenge at the present stage of the proceedings.*"[45] The Chamber has stated that in doing so, it *"will be guided by the procedural framework for dealing with challenges to the jurisdiction of the Court in the cases of against Mr Netanyahu and Mr Gallant"*.[46]

35. The Appeals Chamber found that in the Impugned Decision, the Pre-Trial Chamber had declined to address Israel's jurisdictional challenge on the basis of its interpretation of a number of legal questions related to articles 12 and 19 of the Statute, as such considerations had led it to include that the challenge was submitted prematurely.[47] The Appeals Chamber concluded that the Pre-Trial Chamber had insufficiently addressed Israel's submissions in respect of the particular legal basis underpinning its challenge to the jurisdiction of the Court, and in particular, Israel's central contention that article 19(2)(c) of the Statute permits it to challenge the jurisdiction of the Court at this stage.[48]

36. Specifically, the Appeals Chamber found that:

a) It is incumbent on the Pre-Trial Chamber to specifically address why, in its view, Israel is precluded from bringing a challenge under article 19(2)(c) of the Statute by virtue of article 12(2);[49]

b) The Pre-Trial Chamber should have more specifically addressed the applicability of the notion of res judicata and why the notion prevented Israel from making a challenge under article 19(2)(c) of the Statute;[50]

---

[45] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18-422, para. 64.

[46] Situation in the State of Palestine, ICC PTC I, 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', 28 May 2025, ICC-01/18-435, para. 12.

[47] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18-422, para. 35.

[48] *Ibid*, para. 61.

[49] *Ibid*, para. 57.

[50] *Ibid*, paras. 58-59.

c) The Pre-Trial Chamber did not consider the merits of Israel's challenge under article 19(2)(b) of the Statute, nor why it altered the legal basis to article 19(2)(b) despite the fact that Israel's submissions were centred around article 19(2)(c), and failed to specifically address Israel's submissions in relation to article 19(2)(c).[51]

37. The Victims will first address the question of whether Israel's challenge was premature and will then consider the appropriate legal basis of Israel's standing to bring a jurisdictional challenge at the current stage of proceedings, and the permitted scope of such a challenge.

i) ***Israel may invoke a jurisdictional challenge under article 19(2) of the Statute only after issuance of a warrant of arrest***

38. Israel's challenge to the Court's jurisdiction under article 19(2) of the Rome Statute was introduced on 23 September 2024,[52] prior to the issuance of any arrest warrants by the Pre-Trial Chamber, which were only issued on 21 November 2024.[53] Yet Israel maintained that it already possessed *"an immediate right to challenge jurisdiction under article 19 given the current state of proceedings in the Situation"*.[54] This assertion has no basis under the Court's legal framework.

39. The Victims submit that the Pre-Trial Chamber was correct in finding, in the Impugned Decision, that a challenge to the Court's jurisdiction under article 19 was premature at the stage when Israel's request was introduced, as *"States are not entitled under the Statute to challenge jurisdiction of the Court on the basis of article 19 prior to the issuance of a warrant of arrest or a summons"*.[55]

---

[51] *Ibid*, para. 60.
[52] Situation in the State of Palestine, ICC PTC I, 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.
[53] ICC 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, 21 November 2024.
[54] Situation in the State of Palestine, ICC PTC I, 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, para. 48.
[55] Impugned decision, para. 27.

40. The critical question, therefore, is when a "case" is deemed to have commenced. In proceedings relating to the Situation in the Democratic Republic of the Congo in 2006, Pre-Trial Chamber I defined a case as encompassing *"specific incidents during which one or more crimes within the jurisdiction of the Court appear to have been committed by one or more identified suspects*," and entailing *"proceedings that take place after the issuance of a warrant of arrest or a summons to appear"*.[56] In contrast, a "situation" denotes *"proceedings envisaged in the Statute to determine whether a particular situation should give rise to a criminal investigation"*.[57] The Court has expressly rejected the claim that a "case" is formed upon the Prosecution's submission of an application for arrest warrants.[58]

41. Accordingly, it is established that a challenge under article 19(2) may only be brought after the issuance of a warrant of arrest or a summons to appear. This interpretation stems from the very nature of the arrest warrant procedure set out in article 58 of the Statute. The Court's jurisprudence has consistently recognized the *ex parte* character of the article 58 proceedings.[59] Thus, when issuing an arrest warrant, the Court decides solely on the basis of the Prosecutor's submissions, without hearing any person adversely affected. The latest Chambers Practice Manual confirms that this principle applies *"even if the*

[56] Situation in the Democratic Republic of the Congo, ICC PTC I, Decision on the Applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6, 17 January 2006, ICC-01/04-101-t2N-Corr, para. 65. See also Situation in the Republic of Kenya, ICC PTC II, 'Decision on the Application by the Government of Kenya challenging the admissibility of the case pursuant to Article 19(2)(b) of the Statute', 30 May 2022, ICC-01/09-02/11-96, para. 50.

[57] *Ibid*.

[58] Situation in Democratic Republic of Congo, ICC PTC I, Decision following the consultation held on 11 October 2005 and the Prosecution's submission on jurisdiction and admissibility filed on 31 October 2005, 9 November 2005, ICC-01/04-93 : *"Considering that challenges to the jurisdiction of the Court or the admissibility of a case pursuant to article 19 (2) (a) of the Statute may only be made by an accused person or a person for whom a warrant of arrest or a summons to appear has been issued under article 58; that at this stage of the proceedings no warrant of arrest or summons to appear has been issued and thus no case has arisen; and that the Ad hoc Counsel for the Defence has no procedural standing to make a challenge under article 19 (2)(a) of the Statute"*.

[59] See for instance Situation in the Republic of the Kenya, ICC PTC II, Decision on Application for Leave to Submit Amicus Curiae Observations, 18 January 2011, ICC-01/09-35, para. 10 ; Situation in the Republic of the Kenya, ICC PTC II, Decision on the "Application for Leave to Participate in the Proceedings before the Pre-Trial Chamber relating to the Prosecutor's Application under Article 58(7)', 11 February 2011, ICC-01/09-42, para. 16 ; Situation in the Democratic Republic of the Congo, ICC AC, Judgement on the Prosector's appeal against the decision of the Pre-Trial Chamber I entitled "Decision on the Prosecutor's Application for Warrants of Arrest, Article 58", 13 July 2006, ICC-01/04-169.

proceedings are public".[60] Permitting interested States to invoke article 19(2) before the issuance of a warrant of arrest would undermine the *ex parte* framework established in article 58 and improperly introduce adversarial elements into a phase where the Statute foresees none.[61]

ii) Notwithstanding the prematurity of Israel's challenge, the Chamber should now address it without delay

42. The Victims acknowledge that in light of the issuance of warrants of arrest on 21 November 2024 against Benjamin Netanyahu and Yoav Gallant, confirmed in the Chamber's Decision on the conduct of proceedings,[62] cases now exist and consequently, it is now appropriate for the Chamber to address Israel's jurisdictional challenge, and to consider whether or not Israel has standing to make a challenge at the current stage.[63] Indeed, as noted above, the Chamber has already indicated that in the current proceedings, it *"will be guided by the procedural framework for dealing with challenges to the jurisdiction of the Court in the cases of against Mr Netanyahu and Mr Gallant"*. This was foreseen in the Impugned Decision, in which the Pre-Trial Chamber stated: "*Israel will have the*

[60] ICC, Chambers Practice Manual, Seventh edition, 13 July 2023, para. 3: *"The application of the Prosecutor under Article 58 of the Statute and the decision of the Pre-Trial Chamber are submitted and issued ex parte.* ***Even if the proceedings are public (which is however not recommended), the person whose arrest/appearance is sought does not have standing to make submissions on the merits of the application"*** (emphasis added).

[61] This was argued extensively by the Prosecutor when responding to Israel's challenge (Situation in the State of Palestine, ICC PTC I, Prosecution Response to "Israel's challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute", 27 September 2024, ICC-01/18-857, para. 8). The *ex parte* nature of the Article 58 proceedings has been consistently recognised by the Court's jurisprudence. See for instance Situation in the Republic of the Kenya, ICC PTC II, Decision on Application for Leave to Submit Amicus Curiae Observations, 18 January 2011, ICC-01/09-35, para. 10; Situation in the Republic of the Kenya, ICC PTC II, Decision on the "Application for Leave to Participate in the Proceedings before the Pre-Trial Chamber relating to the Prosecutor's Application under Article 58(7)', 11 February 2011, ICC-01/09-42, para. 16; Situation in the Democratic Republic of the Congo, ICC AC, Judgement on the Prosecutor's appeal against the decision of the Pre-Trial Chamber I entitled "Decision on the Prosecutor's Application for Warrants of Arrest, Article 58", 13 July 2006, ICC-01/04-169.

[62] Situation in the State of Palestine, ICC PTC I, 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', 28 May 2025, ICC-01/18-435, paras. 12 and 16.

[63] The LRV fully concurs with the findings of the Impugned Decision and the OTP (see Situation in the State of Palestine, PTC I, Prosecution Response to "Israel's challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute", 27 September 2024, ICC-01/18-354) that Israel's challenge was, on its face, premature, as it was filed before any arrest warrants had been issued. While the Chamber's decision to admit the challenge is understandable in the interest of avoiding further procedural delays, the LRV underscores that, under the procedural framework of the Rome Statute, the proper course for Israel would have been to resubmit its challenge after the issuance of arrest warrants.

full opportunity to challenge the Court's jurisdiction and/or admissibility of any particular case if and when the Chamber issues any arrest warrants or summonses against its nationals.[64]

43. The Victims acknowledge the sense of procedural dissonance caused by the fact the Chamber is being asked to now consider submissions made at a different stage of proceedings as if they were submitted at the current stage of proceedings – after the opening of cases – and without Israel being asked to resubmit its challenge despite the fact it was found to be premature when issued. The Victims further note that the possible confusion caused by this dissonance is compounded by the fact that, despite the issuance of warrants of arrest having the effect of triggering the opening of cases, no formal case court record appears to have been opened pursuant to Regulation 20(2) of the Regulations of the Registry.[65] However, the absence of a case record does not preclude the existence of a case or cases.

B. Israel's standing to bring a jurisdictional challenge at the current stage

44. As directed by the Appeals Chamber, the Chamber must now determine the applicable legal basis for addressing Israel's jurisdictional challenge at the current stage of the proceedings, now that arrest warrants have been issued. Specifically, the Chamber has been asked to address Israel's submissions in relation to article 19(2)(c), and why it altered the basis to article 19(2)(b).

45. The Victims submit that in considering this question, it is necessary to separate matters of standing from matters of substance. As the Appeals Chamber pointed out, articles 12 and 19, despite the correlation between them, regulate different matters. While article 12 sets out the preconditions to the exercise of

[64] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18-422, para. 63.
[65] Regulations of the Registry, ICC-BD/03-01-06, Regulation 20(2) provides: "*Subject to an order of a Chamber, the Registry shall open a case record upon receipt of an application requesting the issuance of a warrant of arrest or a summons to appear pursuant to article 58.*"

jurisdiction, article 19 provides the grounds on which challenges to the Court's jurisdiction can be made.[66]

46. The Chamber found, in the Impugned Decision, that if arrest warrants were issued for Israeli nationals, Israel *"clearly would have standing to bring a challenge as the State of nationality under article 19(2)(b) juncto article 12(2)(b) of the Statute*."[67] Since it held that such a challenge was in any event premature given that arrest warrants had not yet been issued, the Chamber did not go on to consider this basis in detail. Had it done so, it would have needed to address the consequences of the plain language of article 19(2)(b), which limits its applicability as follows: "*A State which has jurisdiction over a case,* ***on the ground that it is investigating or prosecuting the case or has investigated or prosecuted***" (emphasis added).[68] Consequently, the applicability of this basis of challenge seems to be limited to the admissibility of a case.[69] While Israel is a State *capable* of bringing a challenge under article 19(2)(b), that still leaves the question whether the conditions are fulfilled for it to apply in this instance.

47. On the question of Israel's standing to bring a jurisdictional challenge under article 19(2)(c), Israel itself has sought to raise issues related to the preconditions to the exercise of jurisdiction – namely the question of whether or not the State of Palestine is a State – in the consideration of its standing under article 19(2)(c).

48. For instance, the Victims submit that the Chamber was correct to find in the Impugned Decision that the acceptance by Israel of the Court's jurisdiction in accordance with article 12(3) is not *required*, as the Court can exercise its jurisdiction on the basis of the territorial jurisdiction of the State of Palestine.[70] The Victims assume that this is what the Pre-Trial Chamber meant when it said that as soon as there is one jurisdictional basis pursuant to article 12(2)(a) or (b)

---

[66] Situation in the State of Palestine, ICC PTC I, 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", 24 April 2025, ICC-01/18-422, paragraph 57.
[67] *Ibid*, para. 26.
[68] Kai Ambos, Rome Statute of the International Criminal Court, Article by Article Commentary (C.H. Beck 2022), p.1055-1057.
[69] *Ibid*.
[70] Impugned Decision, para. 13.

of the Statute, there is no need for an additional one: there may exist more than one State able to accept the jurisdiction of the Court, but it cannot be said that the additional basis of jurisdiction conferred by Israel is *needed* or *required* under article 12, in the sense of article 19(2)(c).

49. Likewise, the Chamber was correct in rejecting Israel's argument that it is the *sole* State able to confer jurisdiction because the State of Palestine is not a State, so cannot be the State on the territory of which the conduct in question occurred.[71] Like the previous claim, this rests on Israel's unfounded assertion that the State of Palestine is not a State, whereas the State of Palestine ratified the Rome Statute in accordance with the procedure defined in article 125(3) of the Statute and became a State Party to the ICC on 1 April 2015. In acceding to the Rome Statute, the State of Palestine accepted the jurisdiction of the Court according to article 12(1). In its 2021 Decision, Pre-Trial Chamber I confirmed that the State of Palestine is a State Party to the Statute and should be treated "*like any other State Party*":, and that the Court's territorial jurisdiction in the Situation in the State of Palestine extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem".[72]

C. The impact of the PTC I 2021 Decision under article 19(3)

50. Even if the Chamber considers that Israel has the right to bring a jurisdictional challenge at this stage now that cases have been opened, this does not mean Israel is entitled to ask the Chamber to disregard its own previous findings and seek to reconsider issues already determined in the article 19(3) proceedings. The Victims note that the arguments raised by Israel in its challenge to jurisdiction – other than the issue concerning the impact of the Oslo Accords which was found by Pre-Trial Chamber I in its 2021 Decision not to be relevant to the jurisdictional question before it – are based on the same assertions that

[71] Impugned Decision, para. 14.
[72] Situation in the State of Palestine, ICC PTC I, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143, paras. 101 and 112.

the State of Palestine is not a State that were already comprehensively considered and rejected by Pre-Trial Chamber I in the 2021 Decision. Effectively, Israel is now seeking to bring forward arguments it did not raise when it had the opportunity to do so previously: Israel was specifically invited to submit observations in the context of those article 19(3) proceedings, but declined to do so.[73]

51. Whether or not this is considered in the framework of the notion of *res judicata*, the Chamber is now asked to consider whether a Pre-Trial Chamber's determination of preconditions to the Court's exercise of jurisdiction under article 19(3) in 2021 bars or limits the scope of its consideration of a jurisdiction challenge under article 19(2) at the current stage of proceedings, now that arrest warrants have been issued. While it may be that the right to make a jurisdictional challenge under article 19(2) is not nullified by the existence of an article 19(3) decision per se, the findings of Pre-Trial Chamber I in 2021 remain as relevant today as they were then.

52. To find otherwise, and allow all the same issues to be reopened and considered ab initio, would impact the expeditiousness of the proceedings and further delay the justice process. This cannot be considered consistent with the object and purpose of the Rome Statute. Sub-paragraph 4 of article 19 of the Statute specifies that the "*admissibility of a case or the jurisdiction of the Court may be challenged only once by any person or State referred to in paragraph 2*". This suggests concern with the economy of proceedings on the matter of jurisdiction in particular. The purpose of judicial economy was reflected in the request for a ruling under article 19(3), in which the Prosecutor explained that a "jurisdictional ruling is necessary at this stage to facilitate a cost-effective and expeditious conduct of the Prosecution's investigation... through the provision of an authoritative, clear and public ruling on the jurisdictional basis."[74]

[73] Situation in the State of Palestine, ICC PTC I, 'Order setting the procedure and the schedule for the submission of observations', 28 January 2020, ICC-01/18-14, , para. 16.
[74] Situation in the State of Palestine, ICC PTC I, 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine, 22 January 2020, ICC-01/18-12, para. 20.

53. It has already been firmly settled that the State of Palestine is a State for the purposes of the Rome Statute. This issue has been resolved through the State of Palestine's accession to the Statute. The Statute enshrines a procedure for determining whether an entity can become a State Party to the Rome Statute through accession. article 125(3) reads: "*(t)his Statute shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations*.". The State of Palestine did this on 2 January 2015. The UN Secretary-General duly accepted the State of Palestine's instrument of accession, making the State of Palestine the 123rd State Party to the Statute. In so doing, the Secretary-General followed the practice of the UN General Assembly, which changed the State of Palestine's status in the UN from an 'observer entity' to a 'non-member observer State' on 29 November 2012.[75]

54. Pre-Trial Chamber I's 2021 Decision, reached by Pre-Trial Chamber I after extensive submissions by parties, participants and amici, reflected these developments in making its determination on the Prosecutor's article 19(3) request that the State of Palestine is a State Party to the Statute; that it is a "State" for the purposes of article 12(2(a) of the Statute; and, crucially, that these matters were "*settled by Palestine's accession to the Statute*".[76] As the Chamber itself acknowledged in the 2021 Decision, *"(T)he only manner of challenging the automatic entry into force of the Statute for an acceding State Party is through the settlement of a dispute by the Assembly of States Parties under article 119(2) of the Statute. ... The Chamber has no jurisdiction to review that procedure and to pronounce itself on the validity of the accession of a particular State Party would be ultra vires as regards its authority under the Rome Statute*".[77] This led the Prosecutor to rightly affirm that the Chamber had already held the accession of the State of Palestine to the Rome Statute, accepted by States Parties, to be "*effective, binding, and*

[75] UNGA, Resolution on the Status of Palestine in the United Nations, 4 December 2012, A/RES/67/19.
[76] Situation in the State of Palestine, ICC PTC I, 'Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143, para. 112.
[77] *Ibid*, para. 102.

reviewable even by the Chamber itself."[78] On the basis of Pre-Trial Chamber I's 2021 Decision, the Prosecutor opened an investigation, the proceedings moved on, and States Parties continued to treat the State of Palestine like any other State Party. There are no new facts or circumstances that would justify any change in the PTC's Decision of 2021. Quite the contrary, developments since 2021 only strengthen the premise underlying the Decision.[79]

55. Indeed, in acknowledging that further jurisdictional challenges under article 19 may be raised in future, the Chamber made it clear that there was a distinction between matters then needing to be determined in 2021 regarding the initiation of an investigation by the Prosecutor, and matters that may need to be determined at a later stage. In its 2021 Decision, the Chamber stated that it would be in a position to examine *further questions of jurisdiction* – i.e. not the same questions of jurisdiction – at a later stage of proceedings, such as if a State submits a challenge under article 19(2) of the Statute.[80]

56. Stating that the arguments regarding the Oslo Accords were "*not pertinent to the resolution of the issue under consideration, namely the scope of the Court's territorial jurisdiction in Palestine*", the Chamber considered that these issues may be raised based on article 19 of the Statute, "*rather than*" in relation to a question of jurisdiction in connection with the initiation of an investigation by the Prosecutor.[81]

57. While extensive submissions were already made on the issue of the Oslo Accords by parties, LRVs and amici curiae, including in the proceedings arising

[78] Situation in the State of Palestine, ICC PTC I, 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-AnxI-Corr', 27 September 2024, ICC-01/18-857, para.26.

[79] See for example : UNGA, Resolution adopted by the General Assembly on 18 September 2024, Advisory Opinion of the International Court of Justice on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, 19 September 2024, A-RES/ES-10/24, endorsing the Advisory Opinion, and paragraph 78 of the Advisory Opinion itself, in which the ICJ states that "*from a legal standpoint, the Occupied Palestinian Territory constitutes a single territorial unit, the unity, contiguity and integrity of which are to be preserved and respected.*"

[80] Situation in the State of Palestine, ICC PTC I, 'Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143, para. 131.

[81] *Ibid*, para. 129.

from the UK's Request in 2024,[82] the Victims reiterate below the same basic submissions on this question that they have raised previously, in case the Chamber considers that it is an appropriate stage to consider that issue.

58. Finally, even in the event that the Chamber considers it appropriate to reconsider the issue of whether the State of Palestine is a State for the purposes of article 12(2)(a) in response to Israel's jurisdictional challenge, the Victims submit that, for the reasons outlined above, there is no basis for it to reach different conclusions than when it considered these same questions in 2021 in the context of the article 19(3) proceedings.

V – THE NON-APPLICABILITY OF THE OSLO ACCORDS

59. According to Israel's challenge to the Court's jurisdiction, the Oslo Accords would prevent the State of Palestine from delegating jurisdiction to the Court.[83] LRVs previously addressed at length the non-relevance of the Oslo Accords to the interpretation and application of article 12 of the Rome Statute.[84] In this submission, LRVs will provide further observations, responding to Israel's allegations that the Oslo Accords would be determinative as to the scope of the Court's jurisdiction in the Situation at hand.[85]

60. Specifically, in addressing and refuting Israel's assertions presented in opposition to jurisdiction, the undersigned LRVs stress that: (i) the Court's

[82] Situation in the State of Palestine, ICC PTC I, Request by the United Kingdom for Leave to Submit Written Observations Pursuant to Rule 103, 10 June 2024, ICC-01/18-173-Red.
[83] Situation in the State of Palestine, ICC PTC I, 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, paras. 124 and 87-102.
[84] See, *inter alia*, Situation in the State of Palestine, ICC PTC I, Submission on behalf of Gaza Victims in the proceedings related to the Situation in the State of Palestine, 12 August 2024, ICC-01/18-335., paras. 12-16; Situation in the State of Palestine, ICC PTC I, Submission on Behalf of Palestinian Victims Residents of the Gaza Strip with confidential Annex, 16 March 2020, ICC-01/18-112, paras. 48-54; Situation in the State of Palestine, ICC PTC I, Victims' Observations pursuant to Article 68(3) of the Rome Statute, 12 August 2024, ICC-01/18-330, paras 16-24; Situation in the State of Palestine, ICC PTC I, 'Victims' observations on the Prosecutor's Request for a ruling on the Court's territorial jurisdiction in Palestine', 16 March 2020, ICC-01/18-99, paras 16-24.
[85] Situation in the State of Palestine, ICC PTC I, The State of Israel, Public Redacted Version of "Israel's challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute" With Confidential Prosecution and the State of Israel only Annex A, 23 September 2024, ICC-01/18, para. 84.

jurisdiction is fully governed by article 12 of the Rome Statute, not by bilateral agreements; (ii) the Oslo Accords are not applicable treaties under article 21(1)(b) of the Rome Statute; and (iii) the Oslo Accords do not restrict the State of Palestine's prescriptive jurisdiction.

A. The Court's jurisdiction is governed by article 12 of the Rome Statute, not by bilateral agreements

61. According to article 1 of the Rome Statute, the Court's jurisdiction is 'governed by the provisions of this Statute'. Under article 12(2)(a) of the Rome Statute, the Court may exercise jurisdiction over crimes committed on the territory of a State Party, such as the State of Palestine, regardless of the nationality of the perpetrator. This jurisdiction automatically arises when a State accedes to the Rome Statute, with no opt-out possibility. It is grounded in the Statute and is unaffected by the international obligations that a State Party may have contracted, for example through bilateral political agreements.[86] In contrast to the arguments raised by Israel,[87] under the Rome Statute, States Parties do not delegate their jurisdiction to the Court.[88] The jurisdiction of the ICC does not depend on delegation by states of their criminal jurisdiction; instead, it embodies the "*ius puniendi* of the international community with respect to the core crimes falling withing its jurisdiction".[89]

62. The text of article 12 is clear. The Court "may exercise its jurisdiction" if "the State on the territory of which the conduct in question occurred" is a Party to the Statute. The provision does not qualify or condition this jurisdiction, which

[86] S.H. Steiner and L.N. Caldeira Brant, 'O Tribunal Penal Internacional: Comentarios ao Estatuto de Roma', (*Konrad Adenauer Stiftung*, CEDIN, Del Rey, 2016) 275.
[87] Situation in the State of Palestine, ICC PTC I, 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., para. 102.
[88] Situation in the State of Palestine, ICC PTC I, Amicus curiae observations of Professor Adil Ahmad Haque submitted pursuant to the 'Decision on requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence' of 22 July 2024 (ICC-01/18-249), 6 August 2024, ICC-01/18-303, paras. 13-18.
[89] Leila N. Sadat, 'The Confered Jurisdiction of the International Criminal Court' (2023) 99 Notre Dame Law Review 549, 582.

is *based on status as a State Party*, *not on delegated consent*, on bilateral arrangements or on the enforcement capacity of the State Party.[90]

63. As the OTP has affirmed, "*article 12 establishes a unitary scheme of territorial jurisdiction with no exceptions. The scheme is unitary in the sense that it applies in the same manner to all State Parties*."[91] It does so by virtue of their ratification of the Statute — not by delegation, consent to individual proceedings, or enforcement capacity.

64. This reflects the intent of the drafters, the overwhelming majority of whom supported a model of automatic jurisdiction upon ratification during the Rome Statute negotiations.[92] One of the original proposals concerning jurisdiction encompassed an "opt-in clause" combined with a case-by-case analysis. This two-step approach to jurisdiction - which would have allowed States Parties to render individuals immune from the Court's jurisdiction when politically desirable - was later discarded, and for good reason. In fact, it would have significantly crippled the Court's ability to effectively discharge its mandate.

65. Similarly, if the Court's jurisdiction were affected by bilateral agreements to which a State is a party, this would negate the effects of automatic jurisdiction under the Statute. Under this model, States could accede to the Rome Statute and then effectively negate the legal consequences of their membership by concluding bilateral or other agreements purporting to restrict the Court's jurisdiction over certain persons or parts of their territory. However, the Statute does not permit States Parties to manipulate the Court's jurisdiction.[93] As the Chamber recognised in its 2021 Decision, "*denying the automatic entry into force*

[90] R. Rastan, 'The Jurisdictional Scope of Situations Before the International Criminal Court', 23 *Crim L Forum* (2012) 1, 20.

[91] Situation in the State of Palestine, ICC PTC I, 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-AnxI-Corr', 27 September 2024,", ICC-01/18-857, para. 10. See also Adil A. Haque, 'The International Criminal Court's Jurisdiction in Palestine and the "Oslo Accords Issue' (Just Security, 9 July 2024).

[92] William Schabas and Giulia Pecorella, "Article 12" in Ambos (ed), The Rome Statute of the International Criminal Court: A Commentary (4th ed, 2022), p. 815.

[93] Situation in the State of Palestine, ICC PTC I, Amicus curiae observations of Professor Adil Ahmad Haque submitted pursuant to the 'Decision on requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence' of 22 July 2024 (ICC-01/18-249), 6 August 2024, ICC-01/18-303, para. 5.

for a particular acceding State Party would be tantamount to a reservation in contravention of article 120 of the Statute."[94]

66. This principle has been affirmed by the Appeals Chamber. In the Afghanistan Situation, the Chamber rejected the argument that bilateral arrangements — such as agreements purporting to immunise nationals from prosecution — could restrict the Court's jurisdiction.[95] Such arrangements may affect cooperation, but they do not negate the Court's legal authority under the Statute.[96]

67. The State of Palestine ratified the Rome Statute on 2 January 2015, and thereby accepted the jurisdiction of the Court (article 12(1)). Palestine's accession to the Rome Statute carries with it the same legal consequences as any other accession. Any suggestion that the State of Palestine's capacity to accept the Court's jurisdiction is conditional or inferior to that of other States Parties would contradict the principle of equality of States Parties enshrined in the Statute and in the Vienna Convention on the Law of Treaties.

68. Israel wrongly argues that the Oslo Accords are the only potential source for Palestinian jurisdiction.[97] It asserts that "*the Oslo Accords exclusively prescribe the jurisdictional competencies of the Palestinians with respect to the territory in question pending a negotiated Israeli-Palestinian settlement*." However, the State of Palestine's jurisdictional entitlements are not a political concession granted by Israel under the Oslo Accords.

69. The State of Palestine retains *de jure* sovereignty over its territory, despite the fact that it is currently under *de facto* Israeli military control. As has been emphasized, "*there is not an atom of sovereignty in the authority of the occupying*

[94] Situation in the State of Palestine, ICC PTC I, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143, para. 102.
[95] ICC, Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan, Appeals Chamber, 5 March 2020, ICC-02/17-138, para 44.
[96] Situation in the State of Palestine, ICC PTC I, Written observations by Norway pursuant to Rule 103, 5 August 2024, ICC-01/18-264, para 25; Situation in the State of Palestine, ICC PTC I, Written observations by South Africa, Bangladesh, Bolivia, Comoros, and Djibouti pursuant to Rule 103, 7 August 2024, ICC-01/18-309, para. 30.
[97] Situation in the State of Palestine, ICC PTC I, 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-01/18-356., para. 86.

power."[98] By definition, occupation entails the effective control of a territory by a foreign power that lacks sovereign title to it and exercises such control without the consent of the legitimate sovereign.[99]

70. The entire legal framework governing occupation rests on the principle that sovereignty cannot be alienated through the use or threat of force. Mere military control by a foreign power does not, and cannot, result in a lawful transfer of sovereignty.[100]

71. Jurisdictional competence is a crucial aspect of sovereignty. For this reason, it rests upon Palestinians as a group entitled by international law to exercise the the right to self-determination.[101] Hence, the right of Palestinian people to self-determination and the related entitlements of the State of Palestine "includes plenary criminal jurisdiction over all individuals, regardless of nationality" throughout the Palestinian territory.[102]

72. As already stressed, "*this plenary jurisdictional competence is neither altered nor diminished by the practical arrangements set forth in the Oslo Accords, which cannot be interpreted as a renunciation of any aspect of the State of Palestine's sovereign jurisdictional rights*."[103] It is precisely this plenary jurisdiction—held by the State of Palestine as a State Party to the Rome Statute—over the territory of the State of Palestine that grounds the Court's jurisdiction under article 12(2)(a) of the Statute.

---

[98] L. Oppenheim, 'The Legal Relations between an Occupying Power and the Inhabitants' (1917) 33 *L Q Rev* 363, 364. See also, *inter alia*, Y. Arahi-Takahashi, *The Law of Occupation: Continuity and Change of* International Humanitarian Law, and Its Interaction With International Human Rights Law (Leiden-Boston, 2009) p.42; C. Greenwood, 'The Administration of Occupied Territory in International Law', in Playfair (ed.), International Law and the Administration of Occupied Territories – Two Decades of Israeli Occupation of the *West Bank and Gaza Strip* (Clarendon Press, 1992), p.244.

[99] O. Ben-Naftali, 'PathoLAWgical Occupation: Normalizing the Exceptional Case of the Occupied Palestinian Territory and Other Legal Pathologies', in O. Ben-Naftali (ed.), *International Humanitarian Law and* International Human Rights Law (OUP, 2011), p.133.

[100] E. Benvenisti, *International Law of Occupation*, (OUP, 2012), 5; UN OHCHR, Annexation is a flagrant violation of international law, says UN human rights expert, 20 June 2019.

[101] See, *inter alia*, Wall Advisory Opinion, para. 118; ICJ Advisory Opinion 19 July 2024, paragraphs 230-243.

[102] Arab League August 2024, para. 3 ; Prosecutor Request, paras. 147-156.

[103] Situation in the State of Palestine, ICC PTC I, Prosecution's consolidated response to observations by interveners pursuant to article 68(3) of the Rome Statute and rule 103 of the Rules of Procedure and Evidence, 23 August 2024, ICC-01/18-346, para. 74.

73. Article 7 of the Fourth Geneva Convention indeed prohibits an Occupying Power from concluding any agreement which "*shall adversely affect the situation of protected persons*", and article 8 provides: "*Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention*". Moreover, in interpreting the Oslo Accords, the International Court of Justice stressed that, on the basis of article 47 of the Geneva Convention IV, the protected population "*shall not be deprived*" of the benefits of the Convention "*by any agreement concluded between the authorities of the occupied territories and the Occupying Power*".[104]

74. Hence, Israel's argument that "*there is no other source [than the Oslo Accords] for Palestinian criminal jurisdiction*" misunderstands the basic and universally accepted foundation of the law of occupation, which does not transfer title of sovereignty to the occupying power.

75. It also bears recalling that the State of Palestine submitted declarations under article 12(3) of the Statute in 2009[105] and again in 2014[106] — prior to its full accession. Together with the State of Palestine's ratification of the Rome Statute in 2015,[107] they establish the Court's jurisdiction *ratione loci* and *ratione temporis* beyond dispute.

76. In sum, the Court's jurisdiction is grounded in article 12 of the Rome Statute. It is automatic, self-contained, and applies equally to all States Parties. Interim bilateral political agreements — such as the Oslo Accords — are irrelevant to its existence or exercise. At most, they may affect cooperation, but they do not and cannot constrain the Court's fundamental competence to investigate and prosecute crimes committed on the territory of a State Party.

[104] ICJ Advisory Opinion 19 July 2024 paragraph 102.
[105] Government of Palestine, Declaration recognizing the Jurisdiction of the International Criminal Court, 21 January 2009.
[106] President of the State of Palestine, Declaration Accepting the Jurisdiction of the International Criminal Court, 31 December 2014.
[107] On 2 January 2015, the State of Palestine acceded to the Rome Statute by depositing its instrument of accession with the UN Secretary-General. The Rome Statute entered into force for The State of Palestine on 1 April 2015.

B. The Oslo Accords are not applicable treaties under article 21(1)(B) of the Rome Statute

77. Moreover, Israel's allegations that the Oslo Accords would determine the scope of the Court's jurisdiction rests on a fundamental misreading of article 21(1) of the Rome Statute.

78. Under article 21(1)(a), the Court shall apply: "*In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence*". As clearly emphasized by the Appeals Chamber, only when there is a lacuna in the constituent instruments enlisted in article 21(1)(a), "*recourse to other sources of law is possible*".[108]

79. In other words, article 21(1) permits the Court to use "*where appropriate, applicable treaties and the principles and rules of international law*" ***in a subordinate role*** to the Statute and its Elements of Crimes. However, sources under article 21(1)(b) are not applicable to these proceedings as the Statute itself regulates the preconditions to the Court's exercise of jurisdiction under article 12 in an exhaustive way.[109] As correctly pointed out by the OTP, article 12 determines the existence and scope of the Court's jurisdiction.[110] Hence, there is no lacuna that would justify the recourse to other sources of law under article 21(1)(b).

80. The plain language of article 12 is unambiguous: "*The Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute […] (a) The State on the territory of which the conduct in question occurred*." The provision does not include any exception and does not leave any room for recourse to other sources in determining the preconditions to the exercise of the jurisdiction.

81. Even if one (wrongly) assumes that the Rome Statute does not exhaustively regulate preconditions to the exercise of jurisdiction, the Oslo Accords do not

---

[108] Situation in the Democratif Republic of Congo, ICC AC I, Appeals Chamber, Judgment on the appeal of Mr Ntaganda against the "Second decision on the Defence's challenge to the jurisdiction of the Court in respect of Counts 6 and 9", 15 June 2017, ICC-04-02/06-1962, para. 53.

[109] Situation in the State of Palestine, ICC PTC I, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', 5 February 2021, ICC-01/18-143, para. 111.

[110] Situation in the State of Palestine, ICC PTC I, Prosecution's consolidated response to observations by interveners pursuant to article 68(3) of the Rome Statute and rule 103 of the Rules of Procedure and Evidence, 23 August 2023, ICC-01/18-346, para. 61.

fall within the category of "*applicable treaties*" pursuant to article 21(1)(b) and cannot affect the Court's jurisdiction.[111] Article 21(1)(b) refers to multilateral treaties of general application — such as the Geneva Conventions, the Genocide Convention, and the Convention on the Rights of the Child.[112] It does not encompass politically negotiated, bilateral arrangements such as the Oslo Accords, which are interim in nature, territorially asymmetrical in application, and contextually divorced from the Rome Statute's jurisdictional structure.[113]

82. The Court is not bound by bilateral agreements in which a State waives its right to exercise jurisdiction over crimes allegedly committed by foreign nationals on its territory.[114] Accepting Israel's position would undermine the core architecture of the Rome Statute and frustrate its object and purpose. Indeed, to permit ad hoc arrangements such as the Oslo Accords to dictate the Court's jurisdiction would be to accept a regime of selective impunity, contrary to the Statute's mission to hold accountable those responsible for the most serious crimes of concern to the international community.

83. Accepting Israel's argument would effectively reverse the purpose of the Court. It would allow a State to shield itself from accountability for international crimes by relying on political arrangements concluded under conditions of asymmetry and occupation. This would undermine the Rome Statute's

[111] Situation in the State of Palestine, ICC PTC I, Observations Pursuant to Rule 103 (Robert Heinsch and Giulia Pinzauti), 2 August 2024, ICC-01/18-262, para. 7.
[112] Margaret deGuzman, 'Article 21', in Kai Ambos (ed), Rome Statute of the International Criminal Court, Article by Article Commentary (4th ed., Beck 2022) 1129, mn 26; William Schabas, The International Criminal Court: A Commentary on the Rome Statute (2nd ed., OUP 2016), 519-520; Dapo Akande, 'Sources of International Criminal Law' in Antonio Cassese et al. (eds), The Oxford Companion to International Criminal Justice (OUP 2009) 41, 48–49; Alain Pellet, 'Applicable Law' in Antonio Cassese, Paola Gaeta, and John R.W.D. Jones (eds), The Rome Statute of the International Criminal Court (OUP 2002) Vol. II, 1051, paras. 1069–70.
[113] Situation in the State of Palestine, ICC PTC I, Observations Pursuant to Rule 103 (Robert Heinsch and Giulia Pinzauti), 2 August 2024, ICC-01/18-262, para. 7.
[114] Carsten Stahn, 'Response: The ICC, Pre-Existing Jurisdictional Treaty Regimes, and the Limits of the Nemo Dat Quod Non Habet Doctrine—A Reply to Michael Newton' (49 Vanderbilt Journal of Transnational Law 443 2016), pp.450-451; Roger O'Keefe, Response: "Quid," Not "Quantum": A Comment on "How the International Criminal Court Threatens Treaty Norms" (49 Vand J Tran L 2016), 2; Kai Ambos, 'Palestine, UN Non-Member Observer Status and ICC Jurisdiction' (EJIL:Talk! 6 May 2014).

foundational promise: that impunity for the most serious crimes will not be tolerated.[115]

84. Moreover, human rights are foundational to the Rome Statute and inform every element of its application, including the Court's jurisdiction.[116] According to article 21(3), "*The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights*." Interpreting article 12 in a manner that permits jurisdictional immunities negotiated within the context of asymmetrical, bilateral agreements, falling outside the Statute, would fundamentally undermine the rights of Palestinian victims to seek justice and deprive them of any meaningful redress.[117]

C. The Oslo Accords do not exclude prescriptive jurisdiction

85. Israel asserts that "*the provisions of the Oslo Accords which define Palestinian jurisdiction are clearly not restricted to enforcement powers, but also encompass legislative, i.e., prescriptive authority*".[118] This claim is legally unfounded and misconstrues both the content of the Oslo Accords and the principles of international law governing jurisdiction.

86. Even under a theory of delegated jurisdiction, the Oslo Accords do not impose limitations on the State of Palestine that would affect the Court's jurisdiction. International law indeed recognizes a clear distinction between prescriptive jurisdiction — the power to legislate, including by ratifying treaties and conferring jurisdiction on international courts such as the ICC — and

[115] Situation in the State of Palestine, ICC PTC I, Prosecution's consolidated response to observations by interveners pursuant to article 68(3) of the Rome Statute and rule 103 of the Rules of Procedure and Evidence 2024, ICC-01/18-346, 23 August 24, para. 66.
[116] Situation in the State of Palestine, ICC AC, Appeals Chamber, Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 (2) (a) of the Statute of 3 October 2006, 14 December 2006, ICC-01/04-01/06-772, para. 37.
[117] Situation in the State of Palestine, ICC PTC I, Observations by the State of Palestine to the Pre-Trial Chamber I pursuant to Rule 103 of the Rules of Procedure and Evidence, 6 August 2024, ICC-01/18-291, paras. 9-10. See also Office for Public Counsel for Victims, OPCV Observations on Jurisdictional Matters affecting the general interests of Victims, 12 August 2024, ICC-01/18-327, para. 24.
[118] Situation in the State of Palestine, ICC PTC I, 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-01/18-356, paras. 93-99.

enforcement jurisdiction, which concerns the implementation of such laws.[119] The Oslo Accords, by their terms and structural design, pertain exclusively to enforcement jurisdiction. They do not and cannot limit the State of Palestine's ability to act on the international plane or to assume treaty-based legal obligations.[120]

87. Any enforcement constraints in the Oslo Accords reflect a temporary delegation of implementation powers under occupation, not a relinquishment of the State of Palestine's inherent prescriptive jurisdiction.[121] The right to legislate, enter treaties, and accept the jurisdiction of international tribunals remains unaffected.[122] The Oslo Accords demonstrate, rather than negate, The State of Palestine's pre-existing jurisdiction to prescribe. Indeed, if the State of Palestine did not possess this prescriptive jurisdiction in the first place, it could not have concluded the Oslo Accords.[123]

88. The prescriptive jurisdiction of a State Party is not dependent on its capacity to enforce laws throughout its territory.[124] As Schabas affirms, "There is no requirement that the territorial jurisdiction conferred upon the Court by ratification or accession is limited to the territory over which a State actually exercises effective control".[125] The Court's jurisdiction reflects sovereign entitlement, not sovereign exercise.

---

[119] C. Stahn, 'The ICC, Pre-Existing Jurisdictional Treaty Regimes, and the limits of the Nemo Dat Quod Non Habet Doctrine' 49 *Vand J Tran L* 443, 2016, 446. See also, J. Crawford, 'Brownlie's Principles of Public International Law' (OUP, 2019), p.440; M. Shaw, International Law (CUP, 2017) p.483.

[120] Michael Kearney, 'Palestine and the International Criminal Court: Asking the Right Question', in R.H Steinberg, 'Contemporary Issues Facing the International Criminal Court' (Brill, 2016) pp.29-30.

[121] *See* H. Jobstl, 'An Unlikely Day In Court? Legal Challenges For The Prosecution Of Israeli Settlements Under The Rome Statute' (51(3) Israel Law Review 339 2018), pp.351-352.

[122] Roger O'Keefe, 'Response: "Quid," Not "Quantum": A Comment on "How the International Criminal Court Threatens Treaty Norms"', (49 Vanderbilt Journal of Transnational Law 433, 2016), p.436.

[123] Carsten Stahn, 'Response: The ICC, Pre-Existing Jurisdictional Treaty Regimes, and the Limits of the *Nemo Dat Quod Non Habet* Doctrine—A Reply to Michael Newton' (49 Vanderbilt Journal of Transnational Law 443 2016), p.451; Robert Heinsch and Giulia Pinzauti, Observations Pursuant to Rule 103 (Robert Heinsch and Giulia Pinzauti), 2 August 2024, ICC-01/18-262 02-08-2024, para.16.[123] Carsten Stahn, 'Response: The ICC, Pre-Existing Jurisdictional Treaty Regimes, and the Limits of the *Nemo Dat Quod Non Habet* Doctrine—A Reply to Michael Newton' (49 Vanderbilt Journal of Transnational Law 443 2016), p.451; Robert Heinsch and Giulia Pinzauti, Observations Pursuant to Rule 103 (Robert Heinsch and Giulia Pinzauti), 2 August 2024, ICC-01/18-262, para.16.

[124] Yuval Shany, 'In Defence of Functional Interpretation of Article 12 (3) of the Rome Statute' (8(2) JICJ 329, 2010), pp.331-333.

[125] William Schabas, *The International Criminal Court: A Commentary on the Rome Statute* (OUP, 2010) p.285.

89. The Cyprus precedent again illustrates this point. Despite the occupation of Northern Cyprus by Turkey, a non-party State, since 1974, the Government of Cyprus remains competent to confer ICC jurisdiction over its entire territory. States often enter agreements that limit their enforcement jurisdiction — such as Status of Forces Agreements or the Vienna Convention on Diplomatic Relations. These constraints do not affect their ability to ratify treaties or confer jurisdiction on international tribunals.[126]

90. What matters is whether the relevant territory falls within the sovereign claim of a State Party to the Statute, not whether the State has full practical control. Any enforcement-related limitations within the Oslo Accords do not impinge on the State of Palestine's competence under article 12. The State of Palestine's capacity to exercise prescriptive jurisdiction — including accession to treaties open to "*any State*" or "*all States*" — has been expressly affirmed repeatedly by the United Nations General Assembly and recognised by the Secretary-General acting in his depositary capacity.[127]

91. The State of Palestine has also acceded to numerous multilateral treaties, including core human rights and humanitarian instruments, which impose legal obligations and establish mechanisms for accountability when its officials breach treaty provisions.[128] These instruments are operative across the entire territory of the occupied Palestinian territory, without distinction based on zones or administrative divisions created by Oslo.

92. The Rome Statute does not require States Parties to demonstrate complete enforcement power over all crimes or individuals. The State of Palestine's accession was valid and effective, and any political agreement regulating enforcement powers over certain categories of individuals — such as Israeli nationals — does not affect the Court's jurisdiction under article 12.

---

[126] *Ibid*.

[127] UNGA Resolution 67/19, 4 December 2012, A/RES/67/19, para. 15.

[128] Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, A/HRC/40/74, para. 708.

93. To hold otherwise would lead to the paradoxical outcome whereby an Occupying Power could immunise itself from international accountability by pressuring the occupied population into limiting enforcement agreements under conditions of structural coercion.[129] Such a result would stand in direct contradiction to the object and purpose of the Rome Statute and the principle that no one is above the law, especially where the most serious crimes of concern to the international community are at issue.

94. At most, the Oslo Accords may have relevance at the admissibility stage under article 17 — where the Court considers the availability of national proceedings. They do not bear on the Court's threshold jurisdiction under article 12.

95. In fact, to the extent that the Oslo Accords have impacted the State of Palestine's ability to investigate or prosecute certain individuals — particularly Israeli nationals — this may reinforce the *admissibility* of the case under the Rome Statute's principle of complementarity. Article 17 focuses on whether a case is being genuinely investigated or prosecuted; it does not condition jurisdiction on the existence of unconstrained national powers. Where enforcement is obstructed or foreclosed — especially under conditions of occupation — the Court's role becomes all the more critical. Complementarity does not displace jurisdiction; it affirms the Court's duty to act where accountability is otherwise unavailable.

96. In sum, even if it were to be argued that the Rome Statute entails the principle of delegated jurisdiction, the Oslo Accords cannot be understood as restricting the State of Palestine's prescriptive jurisdiction or as limiting the Court's ability to act under its own Statute.

[129] Article 47 of the Fourth Geneva Convention states that the protected persons who are in occupied territory shall not be deprived of the benefits of the Convention, inter alia, "*by any agreement concluded between the authorities of the occupied territories and the Occupying Power*."

VI - JUSTICE DELAYED IS JUSTICE DENIED, THE IRREPERABLE PREJUDICE CAUSED TO THE VICTIMS OF GAZA

97. The Victims represented by the undersigned LRVs are living in appalling conditions in Gaza and the West Bank and have been suffering unimaginable harm as a direct result of the war crimes, crimes against humanity and genocide that fall within the Court's jurisdiction. Once full of hope and projects, today the only wish left for Palestinians in Gaza is for themselves and their families to survive, and that one day those responsible for the heinous and still ongoing crimes being perpetrated against them will be brought to justice.

98. In the absence of other international or national judicial mechanisms to resort to, the ICC is truly the last hope for hundreds of thousands of Victims who have lost everything: their families, houses, jobs, health, and any prospect for the future. Every delay to these proceedings, and the prospect of justice, adds immensely to the suffering of the Victims, who feel they have been left alone and abandoned.

99. Many of the Victims represented in this submission have already been in contact with the Court multiple times, and have engaged in the proceedings for many years, at great personal risk. Palestinian victims and civil society organizations based in Gaza and the West Bank have submitted information about crimes to the Office of the Prosecutor since 2009, including through multiple article 15 communications.[130] Moreover, since the opening of the preliminary examination and the subsequent decision by the previous Prosecutor to open an investigation, the Victims of the situation have participated in the proceedings before the Pre-trial Chamber, took every opportunity to present their views and concerns when authorised by the Chamber,[131] and do so now that cases have been opened.

[130] Reporters Without Borders press releases on its four article 15 Communications submitted on 15 May 2018, 16 May 2021, 31 October 2023 and 22 December 2023

[131] See, inter alia, Legal Representatives of Victims, Submission on behalf of victims in Article 19 proceedings related to the Situation in the State of Palestine, ICC-01/18-369, 28 October 2024; Raji Sourani, Chantal Meloni and Triestino

100. On the contrary, despite being invited by the Chamber to submit observations on the issue of jurisdiction as early as 2020, Israel chose not to engage with the Court until September 2024 when it filed its challenge to the jurisdiction of the Court under article 19 of the Statute, while at the same time introducing laws against the ICC and even threatening organs, members of the Court directly and indirectly,[132] as well as human rights defenders and civil society working with victims seeking justice and accountability, in a seemingly desperate effort to have the arrest warrants against Mr Netanyahu and Mr Gallant withdrawn or at least suspended.[133] As elaborated below, the Victims wish to highlight that taken together, the different actions by the State of Israel demonstrate lack of good faith in its engagements with the Court.

A. Victims' voices

101. The suffering of the people of Gaza had already reached unimaginable levels when the Prosecutor submitted the application for the two warrants of arrest in May 2024, for Prime Minister Netanyahu and Defense Minister Gallant. Since then, the harm inflicted on the entire Gaza population, both material and psychological, has been exponentially amplified, as the crimes committed, which are still ongoing, have increased in numbers and intensity.

102. In particular, the hundreds of Victims represented by the undersigned LRVs are suffering enormous harm, both material and psychological, as a consequence of the grave crimes attributed to the suspects in the arrest warrants: starvation as a method of warfare (article 8(2)(b)(xxv)); murder as a crime against humanity (article 7(1)(a)); persecution as a crime against

Mariniello, Submission on behalf of Gaza Victims in the proceedings related to the Situation in the State of Palestine, ICC-01/18-335, 12 August 2024; Raji Sourani, Chantal Meloni and Triestino Mariniello, Submission on Behalf of Palestinian Victims Residents of the Gaza Strip with confidential Annex, ICC-01/18-112, 17 March 2020.

[132] Joint communication of the mandate holders of the UN Special Rapporteurs on on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, AL ISR 9/2024, 8 May 2024.

[133] Israel also targeted human rights defenders and civil society organisations working with victims seeking justice and accountability, as acknowledged inter alia by UN experts.

humanity (article 7(1)(h)); other inhuman acts as a crime against humanity (article 7(1)(k)); and war crime of intentionally directing attacks at a civilian population (article 8(2)(b)(i) and 28(b)).

103. The LRVs wish to reiterate the importance of listening directly to the voices of the Victims, reading their testimonies and acknowledging their lives beyond the statistics. Victims are grateful of this opportunity to have their voices and concerns heard by this Court.

104. Communication from outside with the victims of Gaza is extremely challenging due to power outages, movement restrictions, evacuation orders and internet blackouts. Moreover, everyone in Gaza is displaced, some living in tents, others in overcrowded shelters, many not having even a roof on their heads. In the course of interactions, as their situation has become increasingly unbearable, Victims have said their main focus is on their immediate survival. In the words of one victim in August 2024: "*We are struggling with death, hunger and disease. Life is hard and the war has exhausted everyone. Medicine is scarce, my children are sick, I am trying to manage things, and the summer is deadly in the tents*."

105. Two Palestinian journalists from Gaza, who have communicated with the Court, have expressed a profound need for moral justice. Having lost their homes, been displaced from their land, and suffered serious harm as a result of targeted bombings in the Gaza Strip, they view the proceedings before the International Criminal Court as a crucial first step toward accountability. Their hope is to one day return to their homeland in safety and dignity. As one of them put it: "*There is no restitution or compensation that will make up for the fear and terror this war has caused us.* (…) *At the very least, we want moral justice.*" He adds: "*As people under occupation, we have the right to hold the occupation force accountable and pursue it for its crimes and what it has done and is still doing to us. It is one of our fundamental rights to seek justice, especially as the occupation force is still currently committing the said crimes. We will not relinquish our right to justice, which Israel does its best to deprive us of before international courts after annihilating any possibility*

domestically. Israel's blatant delaying tactics and fallacious arguments on statehood and the Oslo Accords are further victimisation."

106. Endless testimonies coming out of Gaza in these months are harrowing accounts of the tragic situation Palestinian victims are experiencing. Many of these testimonies are collected and published by Palestinian human rights organizations, still on the ground despite the enormous challenges, as the Palestinian Center for Human Rights (PCHR).[134]

107. In one of these testimonies, D.Al, a mother who lost her four children, her sister, and her four nieces, in a single Israeli airstrike on a hospital, said:[135] "*They didn't just kill my children. They killed my dreams. But they will never silence my voice. I will keep telling our story- of mothers' sorrow, of our children who were turned into dust by missiles. I will continue demanding justice, no matter how long it takes.*"

M.AS, another mother of four who lost her hand in an Israeli airstrike on a hospital, declared:[136] "*At 2:15 a.m. on Monday, 14 October 2024, I was lying awake next to my daughter in our tent, unable to sleep from the sound of warplanes. Suddenly, a terrifying explosion. An Israeli missile hit our tent directly, without warning. I felt my left arm go limp* […] *It was nearly severed* […] *Both the ulnar and radial nerves were severed. My hand is now completely paralyzed* […] *This injury didn't just destroy my body—it crushed my spirit. I was the pillar of my family. Now I feel like I've lost myself* […] *Delays in treatment may lead to permanent disability—or even amputation. I just want to regain use of my hand, to live with dignity and care for myself and my family. Delays are denying me the most basic human right*."

A.A, a displaced father with his five children details the starvation situation in Gaza and the struggle to receive food and aid in a long and moving testimony

[134] The testimonies can be read in the Reports and Press releases by the PCHR, available on their website: https://pchrgaza.org/

[135] Palestinian Centre for Human Rights, *Genocide Against Gaza, Testimonies*, *Doha's Stand: A Mother Who Refused to Fall*, 23 June 2025.

[136] Palestinian Centre for Human Rights, *Genocide against Gaza, Testimonies*, *Fighting Pain and Powerlessness with One Hand*, 15 June 2025.

that he recently published:[137] "*My journey began on the Day of Arafat, 05-06-2025, setting off to reach the humanitarian aid center In Rafah* […]. *This black Eid, where our hunger drove us out to get food from the hands of our enemy… food wrapped in humiliation and disgrace after we were once dignified. We returned and tried to sleep on the dust in front of the sad Rafah beach, waiting for the time to enter the center. Then, at a quarter to seven in the morning, intense, direct, rapid, and terrifying gunfire began, with its height not exceeding one meter above the ground. All you could do was lie face down or curl up in a fetal position… Your entire life flashes before your eyes; you remember those who love you… You say, "Woe is me, death is not my last concern today, but how can I die and not return to my children with food to satisfy their hunger? They are waiting for me in the shelter, hungry, hoping for my return alive and with some food*." [...] *The firing continued from a quarter to seven until eight o'clock… an hour and a quarter of gunfire at every movement, from all types of weapons, synchronized with the sounds of various aircraft* […] *And when the firing stopped, the experienced ones said, "This is the time to enter…"* […] *You run like animals to get food, seeing victims and injured, but you cannot look at them or help them for reasons, the first being that as soon as you stop, the crowds of hungry people behind you will push you and trample you under their feet without mercy or compassion, or you will be shot, or you will not reach the aid.* [...] *Truly a jungle in every sense of the word, where the strong devour the weak without any mercy… They have stripped us of everything related to humanity, turning us into soulless monsters. After leaving the land of death at the aid center, carrying some food, you open the bag to see what you got. Here I will mention what I received: 2 kg lentils, half a kg of chickpeas, 2 kg flour, 4 kg pasta, 1 kg tahini, 1 liter cooking oil (serge), 2 kg salt, 1 can of canned peas, 1 can of canned beans, and 2 cans of canned fava beans. Here, your tear will fall, overcoming you if you have any remnants of humanity. You will feel oppression tearing your heart and soul without mercy or compassion. The veins of your soul will tear; your feelings will bleed incessantly… Is it for this meager amount of food that I throw myself into the mouth of*

[137] Palestinian Centre for Human Rights, *Genocide Against Gaza, Testimonies, Dangerous Ordeal to Get a Box of Aid*, 11 June 2025.

death, walk tens of kilometers, crawl on my belly hundreds of meters, run thousands of steps, see the bodies of young men lying on the ground, see the wounded and cannot extend my hand to save any of them…? […] *Young men, O Lord of the Worlds, young men and heads of households who left their children hungry on Eid day, and now they return to them in shrouds, and their children remain hungry…*".

108. While it is impossible, under the current circumstances, to calculate the full extent of the death and destruction inflicted by Israel on Gaza, as of 18 June 2025, the official death toll has reached at least 55,637 Palestinians killed and 129,880 injured, of whom 5,334 were killed and 17,839 injured *after* 18th of March 2025, namely after Israel broke the ceasefire and resumed its military attacks on Gaza.[138] The vast majority of those killed are civilians, including an overwhelming number of children, women and elderly persons.[139] Of those killed: 116 were civil defense workers;[140] 224 were journalists[141]- the highest number of killed over the course of a year in any documented by the Committee to Protect Journalists;[142] 463 were aid workers;[143] and 1580 were health workers.[144] Many of those killed are still under the rubble and therefore do not appear in the official statistics.

109. Meanwhile, humanitarian agencies report that Gaza's hospitals are on the brink of collapse; a complete blockade on the entry of any humanitarian aid in the Strip was in effect for 80 days continuously, from 2 March until 19 May 2025, intensifying the malnutrition and starvation of the population; and as of 11 June, 100% of the 2.1 million population of Gaza is projected to face high levels of acute food insecurity, and 470,000 face catastrophic levels.[145] The new food distribution centres opened by the Gaza Humanitarian Foundation,

[138] OCHA, *Humanitarian Situation Update #296 | Gaza Strip*, 11 June 2025.
[139] OCHA, *Reported Impact Snapshot*, 18 June 2025 ; Al-Haq, *Urgent International Action Needed to Stop the Ongoing, Escalating, and Irreversible Genocidal Violence in Gaza*, 20 May 2025.
[140] OCHA, *Humanitarian Situation Update #296 | Gaza Strip*, 11 June 2025.
[141] Ibid; Palestinian Centre for Human Rights, *Ongoing Acts of Genocide Against Palestinian Journalists: Israeli Forces Target Journalists' Tent in Al-Ahli Baptist Hospital's Courtyard in Gaza City*, 5 June 2025.
[142] Committee to Protect Journalists, *Israel-Gaza War*, visited on 17 June 2025.
[143] OCHA, *Humanitarian Situation Update #296 | Gaza Strip*, 11 June 2025.
[144] *Ibid*.
[145] *Ibid*.

established by Israel and the US and located in military zones tens of kilometres from the displaced population, have proved to be death traps for civilians trying to access them, and are accused by the UN of violating the principles of impartiality, neutrality and independence in provision of humanitarian aid.[146] The starvation effects have also intensified due to the extensive damage to agricultural resources, with 83% of croplands and agricultural water wells, 71% of greenhouses, and 72% of fishing fleet destroyed.[147] 82% of Gaza's population is living within Israeli-militarised zones, with 92% of housing units destroyed or damaged. Gazans have now been forced to endure these unimaginable conditions for almost two years, while similar tactics have also been deployed in the West Bank.[148]

110. Time is of the essence: the longer it takes to bring about justice and accountability, the more people across Gaza, as well as in the West Bank, will suffer irreparable harm.

B. Israel's use of the legal avenues to obstruct the delivery of justice

111. As already noted, despite being invited by the Chamber to submit observations on the issue of jurisdiction as early as 2020,[149] Israel started to engage in the proceedings only in September 2024[150] —well after the Pre-trial Chamber had already ruled on the issue of the Court's territorial jurisdiction over the State of Palestine and crimes committed there.

112. While States have the right under the Statute to bring a challenge under article 19(2), the Victims note with concern that the decision to raise the issue

[146] Live Stream U.N. Press Release U.N. Secretary-General António Guterres, *Gaza: Humanitarian Situation*, 23 May 2025 ; Reuters, *What Is the New U.S.-Backed Gaza Aid Plan and Why Doesn't the U.N. Like It?*, 10 June 2025.
[147] OCHA, *Humanitarian Situation Update #296 | Gaza Strip*, 11 June 2025.
[148] Between 2024 and June 2025, 622 Palestinians have been killed by Israeli forces, more than 40,000 thousand have been displaced and 2,631 structures have been demolished. See OCHA, Data on Casualties, visited June 19, 2025; Bar Peleg & Hagar Shizaf, Katz: 40,000 People Evacuated from Refugee Camps in the West Bank, I Instructed Not to Allow Them to Return in the Coming Year, Haaretz, 23 February 2025) ; OCHA, Data on Demolition and Displacement in the West Bank, updated June 16, 2025, updated June 16, 20.
[149] Situation in the State of Palestine, ICC PTC I, Order setting the procedure and the schedule for the submission of observations, 28 January 2020, ICC-01/18-14, para. 16.
[150] Situation in the State of Palestine, ICC PTC I, 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.

again long after it was settled demonstrates an intention to delay the proceedings and to reopen questions relating to the Court's jurisdiction which, as the LRVs have submitted above, are settled or not for the Chamber to address.

113. Mr. Netanyahu has issued multiple statements framing the Court as an enemy of the people of Israel (an enemy that will be overcome).[151] For example, on the day the Court announced the issuance of the warrants of arrest for war crimes and crimes against humanity, he declared that "*it is not surprising that this outrageous decision was led by a chief prosecutor suspected of serious acts, and it is not surprising that this decision was made by judges who have lost all sense of justice and fairness. The prosecutor's actions and the judges' decision empty the concept of "justice" and turn the International Court of Justice into a political tool that has lost its legitimacy as an international legal institution. Israel does not and will not recognize this distorted decision […]*". He later added on the same day, that "*Israel rejects with disgust the absurd and false actions and charges against it by the International Criminal Court, which is a biased and discriminatory political body*".[152]

114. Indeed, in anticipation of the Prosecutor's decision to request arrest warrants, Prime Minister Netanyahu had already made clear that he expects other countries to stand by Israel[153] and "come out firmly against this outrageous step, a step that will harm the self-defense capacity not only of the State of Israel, but of all democracies in the world. Israel expects these leaders to use their full influence and all the means at their disposal to stop this dangerous step, which will constitute moral and historical bankruptcy.

115. Against this background, it is clear that Israel's challenge to the Court´s jurisdiction forms part of a broader strategy to shield its nationals from accountability for the most serious crimes committed in Gaza and beyond. Of even more concern to the Victims is that, besides the repeated statements aimed

[151] Press Release, Office of the Prime Minister, *Prime Minister Netanyahu's remarks regarding the Court in Hague's decision*, 21 November 2024.
[152] Press Release, Office of the Prime Minister, *Prime Minister Netanyahu's remarks regarding the Court in Hague's decision*, 21 November 2024.
[153] Press Release, Office of the Prime Minister, *Prime Minister Netanyahu: "no decision, in the Hague or anywhere else, will in the least impair our determination to achieve all the aims of the war"*, 30 April 2024.

at discrediting the Court such as those quoted here, Israel is putting in place a legal framework designed to penalise any support to the ICC and thereby to inhibit the Court's ability to deliver justice for Palestinian victims.

116. As of 9 March 2025, new Israeli government measures require NGOs based in the Gaza Strip and the West Bank to register with Israeli authorities in order to maintain their operations. The guidelines explicitly state that registration may be denied if "the organization has, in writing or orally, expressed support for legal proceedings against Israeli citizens in a foreign country or before an international tribunal, for actions carried out in the course of their duties in the Israel Defense Forces or in any security agency of the State of Israel".[154] Likewise, clause 7.2 (12) provides that no visa or residence permit will be granted to a person if they supported such legal proceeding against Israelis.[155]

117. Beyond the severe impact this provision will have on victims—who may be forced to choose between justice and the urgent humanitarian aid they require—it also represents a clear attempt by Israel to silence criticism and evade its international responsibilities.

118. This repressive trajectory reached a new level with the introduction of the Bill for Protection of Israeli Public Figures from Activity of the International Criminal Court in The Hague against the State of Israel, 2024" ("ICC Bill") in the Knesset that seeks to criminalise any support provided by an Israeli national or legal entity to proceedings before the ICC.[156]

119. The Draft´s explanatory notes confirm that it is specifically designed to hinder the Court's activities, stating that *"the Court's action poses a real danger to the State of Israel"*, and, the declared purpose of the legislation is to *"protect IDF soldiers, elected officials, public officials, and any other person liable to be injured by the*

---

[154] Ministry of Diaspora Affairs and Combating Antisemitism, *International Non-Governmental Organizations Primarily Engaged in Activities with Palestinian Residents for the Purpose of Humanitarian Aid—Guidelines for the Registration of Organizations and Issuance of Recommendations for Their Foreign Employees*, The Ministry of Diaspora Affairs and Combating Antisemitism Website, 11 March 2025, rule 7.1(11).

[155] *Ibid*, rule 7.2(12).

[156] Twenty-Fifth Knesset, Proposed Law : Protection of Israeli Public Officials from the Action of the International Criminal Court in The Hague against the State of Israel, 5784-2024, 1 July 2024.

activity of the International Criminal Court in The Hague due to a matter concerning an action or omission committed in the framework of their work, service or assistance to the State of Israel or its allies".[157] If adopted, the law would expose to criminal sanctions any individual or entity cooperating with or assisting the Court. Although not yet enacted, the bill passed preliminary reading on 16 February 2025 with high level[158] and with the full support of the government.

120. On June 20 2025, mandate holders of UN Special rapporteurs in a joint communication stressed their concerns around the proposed legislation highlighting that "*these offences would criminalize victims, their representatives, or any human rights defenders for legitimately publicizing and sharing with the ICC the findings of their monitoring, investigation, documentation and reporting activities in relation to alleged Israeli violations of international law, including in the State of Palestine, as well as alleged violations of Israel's allies worldwide*".[159] They further emphasized their concerns that "*the Bill appears to be part of a pattern of legislative and policy initiatives aimed at de facto silencing civil society organizations that seek to hold Israel accountable for violations of international law*".[160]

121. These efforts are not new but are consistent with Israel's long-term strategy to avoid accountability. In 2021, Israel's previous Defence Minister designated six prominent Palestinian Civil Society Organizations as "terror organizations" in an attempt to hinder their valuable work documenting, monitoring and prosecuting human rights violations and international crimes for which Israel is responsible. Investigations by UN experts and EU into

---

[157] *Ibid*.

[158] Front Line Defenders, "Israel: Two dangerous bills risk criminalising and preventing Israeli human rights defenders from operating", 28 February 2025; Knesset News, "Approved in preliminary reading: Prohibition on public authorities and bodies, Israeli citizens and residents, to cooperate with the International Criminal Court in The Hague", 19 February 2025.

[159] Joint communication of the mandate holders of the UN Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, OL ISR 14/2025, 20 June 2025.

[160] *Ibid*.

Israel's claims against the six organizations found them to be baseless, and the designation to amount to illegal suppression of human rights and in violation of the Fourth Geneva Convention.[161]

122. It is clear from the above that the State of Israel is trying to politicize the judicial process with the aim of undermining the Court and preventing it from pursuing action against Israeli nationals. Israel's assertion that any decision on jurisdiction over Israeli nationals is a political one and should be left to "bilateral agreements"[162] has already been rejected by the Pre-Trial Chamber in its 2021 decision[163] and by the ICJ in its Advisory Opinions, including that of July 2024, on the illegality of Israel´s occupation of Palestinian territory.[164]

123. The repeated statements attacking the ICC, as well as the recent introduction of measures including legislative proposals that penalise support for the Court, demonstrate the State of Israel's determination to try and undermine the Court's legitimacy, authority and effectiveness. Submissions made to the Court on behalf of the State of Israel should be viewed against this background as part of Israel's attempt to delay justice and ultimately evade accountability. This delay is a contributing factor in enabling Israel to continue the devasting crimes against Palestinians and depriving the victims of any hope of an end to the hostilities and any possibility to heal and rebuild their lives. The Victims wish to reiterate that justice delayed is justice denied.

VII - RELIEF REQUESTED

For the reasons set out above, the Victims respectfully request the Chamber:

---

[161] Al-Haq, *Alert: Israel Takes Alarming Steps to Enforce Its Persecution of Six Palestinian Organizations in the West Bank, International Community Must Intervene*, 7 November 2021; Al-Haq, PNGO & PHROC, *Israel's Sinister Designation of 6 Leading Palestinian Organizations as "Terror Organizations" Is an Attempt to Silence and Control Palestinians*, 23 October 2021; Press Release, U.N. Experts Condemn Israeli Suppression of Palestinian Human Rights Organizations, 24 August 2024.

[162] Situation in the State of Palestine, ICC PTC I, Public Redacted Version of "Israel's challenge to the jurisdiction of the Court pursuant to article 19(2) of the Rome Statute", para. 7, 23 September 2024, ICC-01/18.

[163] Situation in the State of Palestine, ICC PTC I, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine', para. 53-57, 5 February 2021, ICC-01/18.

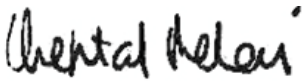
[164] ICJ, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Advisory Opinion), I.C.J. Reports 2024, July 19, 2024., paras. 38-40.

a. In addressing the issue of Israel's standing to make a jurisdictional challenge under article 19(2) at the present stage of proceedings, to reject any basis for standing founded on Israel's assertion that the State of Palestine is not a State able to accept the jurisdiction of the Court;
b. If it finds Israel has standing to make a jurisdictional challenge at the present stage of proceedings, not to reconsider matters firmly settled in its previous Decision of 2021 under article 19(3) of the Statute, including that the preconditions to the Court's exercise of jurisdiction under article 12 are fulfilled;
c. If it decides to address Israel's submissions regarding the impact of the Oslo Accords, to find that these agreements present no bar to the Court's exercise of jurisdiction over Israeli nationals; and,
d. To dismiss any other issue purporting to challenge the jurisdiction of the Court over Israeli nationals for crimes committed on the territory of the State of Palestine.

Respectfully submitted by

Raji Sourani (Counsel)

Chantal Meloni (Counsel)



Rodney Dixon KC (Counsel)

Jeanne Sulzer (Counsel)

Clémence Witt (Counsel)

Triestino Mariniello (Assistant Counsel)

Dated this 27 June 2025

At Cairo, London, Paris, Berlin and Liverpool.