



Original: English

No.: ICC-01/18
Date: 13 February 2020

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN THE STATE OF PALESTINE

PUBLIC

**Request pursuant to Rule 103 of the Rules of Procedure and Evidence for leave to
submit observations**

Source: Czech Republic

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Paolina Massidda

**The Office of Public Counsel for the
Defence**

States' Representatives

The competent authorities of the State of
Palestine

The competent authorities of the State of
Israel

Amicus Curiae

Guernica 37 International Justice
Chambers

Czech Republic (applicant)

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Phillip Ambach

Other

I. INTRODUCTION

1. The Czech Republic requests permission to submit observations as *amicus curiae* in accordance with Rule 103 of the Rules of Procedure and Evidence and pursuant to Order setting the procedure and the schedule for the submission of observations No. ICC-01/18 of the Pre-Trial Chamber I dated 28 January 2020.
2. At the outset, the Czech Republic wishes to point out that it fully respects and trusts in the independence of the International Criminal Court (hereinafter as the “Court”) and in its impartial decision-making in accordance with the Rome Statute.
3. With regard to the “Situation in the State of Palestine”, the Czech Republic believes that the issue of the statehood of Palestine should be addressed. This question is closely linked to the question of the Court’s jurisdiction and, therefore, relevant.

II. SUMMARY OF OBSERVATIONS

4. The existence of a State is a precondition to the Court’s exercise of jurisdiction for the purposes of Article 12(3) and Article 12(2) of the Rome Statute. The term of “State”, as contained in the Rome Statute, needs to be interpreted in accordance with general international law.
5. In this context, the Czech Republic draws the attention of the Court to Article 1 of the Montevideo Convention on the Rights and Duties of States (done at Montevideo on 26 December 1933). This provision sets out four constituent criteria of statehood that have been generally recognized as customary international law: a permanent population, a defined territory, government (in control of the territory), and the capacity to enter into relations with other States.
6. It has been a long-standing position of the Czech Republic that Palestine has not fulfilled yet all criteria of statehood under international law. The Czech Republic, therefore, voted against the admission of Palestine to the United Nations Educational, Scientific and Cultural Organization on 31 October 2011

and followed the same rationale when it voted against the adoption of the United Nations General Assembly resolution on the Status of Palestine in the United Nations according to Palestine an “observer State status” on 29 November 2012. While the Czech Republic fully supports Palestine’s aspirations to future statehood through a comprehensive negotiated agreement with the State of Israel, the membership of Palestine in international organizations or its accession to multilateral treaties, including the Rome Statute, cannot substitute the missing elements of statehood.

7. Article 19(1) of the Rome Statute explicitly requires the Court to “satisfy itself” that it has jurisdiction. In view of the above, the Czech Republic has doubts arising from international law that the Court is permitted to exercise its jurisdiction in this situation.
8. Therefore, the Czech Republic respectfully requests the Chamber to grant leave to submit written observations as *amicus curiae* on the matters stated above.



Tomáš Petříček
Minister of Foreign Affairs of the Czech Republic

Dated this 13th day of February 2020

At Prague, Czech Republic