



Original: English

No.: ICC-01/18
Date: 12 July 2024

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge Nicolas Guillou

SITUATION IN THE ALLEGED STATE OF PALESTINE

SECRET

**Annex to Request for Leave to Submit Further Observations
on Jurisdiction and Admissibility
pursuant to Rule 103(1) of the Rules of Procedure
on behalf of the Non-Governmental Organisations
UK Lawyers for Israel ("UKLFI"), B'nai B'rith UK ("BBUK"),
the International Legal Forum ("ILF") and the Jerusalem Initiative ("JI")**

Source: UK Lawyers for Israel ("UKLFI"), B'nai B'rith UK ("BBUK"), the
International Legal Forum ("ILF") and the Jerusalem Initiative ("JI")

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

The Office of the Prosecutor
Mr Karim A. A. Khan KC

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

The Office of Public Counsel for Victims

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Reference: C.N.13.2015.TREATIES-XVIII.10 (Depositary Notification)

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT
ROME, 17 JULY 1998

STATE OF PALESTINE: ACCESSION

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

The above action was effected on 2 January 2015.

The Statute will enter into force for the State of Palestine on 1 April 2015 in accordance with its article 126 (2) which reads as follows:

“For each State ratifying, accepting, approving or acceding to this Statute after the deposit of the 60th instrument of ratification, acceptance, approval or accession, the Statute shall enter into force on the first day of the month after the 60th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.”

6 January 2015



Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depositary notifications are issued in electronic format only. Depositary notifications are made available to the Permanent Missions to the United Nations in the United Nations Treaty Collection on the Internet at <https://treaties.un.org>, under "Depositary Notifications (CNs)". In addition, the Permanent Missions, as well as other interested individuals, can subscribe to receive depositary notifications by e-mail through the Treaty Section's "Automated Subscription Services", which is also available at <https://treaties.un.org>.

From: Dolidze, Irinka <Irinka.Dolidze@icc-cpi.int> on behalf of Lewis, Peter <Peter.Lewis@icc-cpi.int>
Sent: 18 February 2021 12:54
To: jonathan.turner@uklfi.com
Subject: RE: Instrument of Accession of the State of Palestine

Dear Mr Turner,

Thank you for your email of 15 February.

The Court does not have a copy of the accession instrument for the State of Palestine.

Accession instruments are deposited with the Treaty Section of the United Nations. When the Court is notified by the Secretary General of the United Nations of an accession/ratification to the Rome Statute, a copy of the instrument is not attached to the notification.

My understanding is that this is the practice applied by the Treaty section in respect of all accession/ratification instruments.

I am afraid therefore that I cannot assist you with your request.

Regards,

Peter Lewis

From: Jonathan Turner <jonathan.turner@uklfi.com>
Sent: 15 February 2021 17:23
To: Lewis, Peter <Peter.Lewis@icc-cpi.int>
Subject: Instrument of Accession of the State of Palestine

Dear Mr Lewis

The recent judgments of Pre-Trial Chamber I refer to the (purported) Instrument of Accession of the "State of Palestine" to the Rome Statute. While the notification of the UN Secretary General that this document had been deposited has been published on the ICC website and elsewhere, we have not been able to find any publication of the Instrument of Accession itself.

Given the apparent significance of this document, we are writing to ask you to provide a copy of it to us and/or to have it published on the ICC's website; or, if it has been published, please indicate where we can find it.

We thank you in anticipation of your assistance.

Yours sincerely

Jonathan Turner

Jonathan Turner
Chief Executive
UK Lawyers for Israel
Suite 2S, Queen's Chambers, 5 John Dalton Street, Manchester M2 6ET
Tel 07801 337157, email jonathan.turner@uklfi.com, web www.uklfi.com

Patrons: Lord Carlile CBE QC, Lady Cosgrove PC CBE QC, Baroness Deech DBE QC, Lord Dyson PC, Sir Bernard Eder, Lord Howard CH PC QC, Sir Ivan Lawrence QC, Lord Millett PC QC, Lord Pannick QC, Professor Richard Susskind OBE, Lord Trimble PC, Rosalind Wright CB QC, Lord Young CH PC DL
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Foreign, Commonwealth
& Development Office

Information Rights Unit
WH 2.177
King Charles Street
London
SW1A 2AH

Email: information.rights@fcdo.gov.uk

www.gov.uk/fcdo

Mr Jonathan Turner

jonathan.turner@uklfi.com

15 March 2021

Dear Mr Jonathan Turner,

FREEDOM OF INFORMATION ACT 2000 - REQUEST REF: FOI2021/04117

Thank you for your email of 15 February 2021 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

This is a request under the Freedom of Information Act.

Please provide a copy of the (purported) Instrument of Accession of the "State of Palestine" to the Rome Statute of the International Criminal Court.

Explanation

The UN and other institutions have published the notification issued by the UN Secretary General of the deposit of the purported accession of the "State of Palestine" to the Rome Statute of the International Criminal Court: see e.g.

<https://treaties.un.org/doc/Publication/CN/2015/CN.13.2015-Eng.pdf>.

However, we have not been able to find any published copy of the instrument of accession that was apparently deposited. If you are aware of its publication, please indicate where we might obtain it (for example, any internet url of where it has been posted).

We note that the recent majority judgment of Pre-Trial Chamber I of the International Criminal Court states that the United Nations Secretary-General circulated Palestine's instrument of accession among the States Parties before accepting it: see

<https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/18-143> at paragraph 100.

We assume that a copy of this apparently significant document has been retained by the FCDO and we ask that it be disclosed to us if it has not been published elsewhere.

I am writing to advise you that following a search of our paper and electronic records, I have established that the information you requested is not held by this Department.

The United Nations Secretary-General circulated the depositary notification at <https://treaties.un.org/doc/Publication/CN/2015/CN.13.2015-Eng.pdf> to States Parties to the Rome Statute, but not the instrument of accession itself.

If you wish to make a complaint or if you would like a review of our response, please write to the Information Rights Unit, Foreign, Commonwealth & Development Office,

Room WH 2.177, King Charles Street, London, SW1A 2AH. E-mail: information.rights@fcdo.gov.uk. You have 40 working days to do so from the date this letter. Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the above, you may then apply directly to the Information Commissioner for a review of our response. Generally, the Information Commissioner will only carry out a review once you have exhausted the internal FCDO complaints procedure. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, or online at: <https://ico.org.uk/make-a-complaint/>

You can find responses to other FOI requests on the FCDO's [website](#).

Yours sincerely,

Information Rights Unit

For information about how the FCDO handles personal information please see our [Personal Information Charter](#)

From: David Nanopoulos <nanopoulostd@un.org>
Sent: 24 March 2021 18:52
To: 'jonathan.turner@uklfi.com'
Cc: UN Treaty
Subject: RE: Rome Statute of the International Criminal Court -
Accession by Palestine

Dear Mr. Turner,

I would like to reiterate that when an instrument contains a statement, it is reproduced in the depositary notification. Since the constant practice of the Secretary-General, as depositary of multilateral treaties, is not to share with third-parties copies of original instruments deposited with him, requests for access to copies of such original instruments are to be addressed directly to the relevant submitting authorities.

Yours sincerely,

David Nanopoulos

From: Jonathan Turner <jonathan.turner@uklfi.com>
Sent: Tuesday, March 23, 2021 3:01 PM
To: David Nanopoulos <nanopoulostd@un.org>
Cc: UN Treaty <treatysection@un.org>
Subject: RE: Rome Statute of the International Criminal Court - Accession by Palestine

Dear Mr Nanopoulos

Thank you for your message below.

Please may I ask a further question: did the instrument whose deposit was notified by the depositary notification C.N.13.2015.TREATIES-XVIII.10 contain any reference to any resolution of any United Nations body; if so, which resolution?

Alternatively, if that question cannot be answered, may I ask: if the instrument contained any reference to any resolution of any United Nations body, would this have been mentioned in the depositary notification?

Yours sincerely

Jonathan Turner

Jonathan Turner
Chief Executive
UK Lawyers for Israel
Suite 2S, Queen's Chambers, 5 John Dalton Street, Manchester M2 6ET
Tel 07801 337157, email jonathan.turner@uklfi.com, web www.uklfi.com

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From: David Nanopoulos <nanopoulosd@un.org>
Sent: 22 March 2021 21:21
To: 'jonathan.turner@uklfi.com' <jonathan.turner@uklfi.com>
Cc: UN Treaty <treatysection@un.org>
Subject: RE: Rome Statute of the International Criminal Court - Accession by Palestine

Dear Mr. Turner,

When an instrument contains a statement, it is reproduced in the depositary notification. Instruments expressing consent to be bound must be signed by one of the qualified authorities to be accepted in deposit.

Yours sincerely,

David Nanopoulos

From: Jonathan Turner <jonathan.turner@uklfi.com>
Sent: Monday, March 22, 2021 5:55 AM
To: David Nanopoulos <nanopoulosd@un.org>
Cc: UN Treaty <treatysection@un.org>
Subject: RE: Rome Statute of the International Criminal Court - Accession by Palestine

Dear Mr Nanopoulos

Thank you for your email below. It is possible to provide us with the following information:

1. Did the instrument contain any statement as to the territory to which it applied? If so, what did it say?
2. Did the instrument identify (by signature or otherwise) any person or persons by whom it was made and what authority they had to make it? If so, which person or persons was/were so identified and what authority did they claim to have?

Yours sincerely

Jonathan Turner

Jonathan Turner
Chief Executive
UK Lawyers for Israel
Suite 2S, Queen's Chambers, 5 John Dalton Street, Manchester M2 6ET
Tel 07801 337157, email jonathan.turner@uklfi.com, web www.uklfi.com

Patrons: Lord Carlile CBE QC, Lady Cosgrove PC CBE QC, Baroness Deech DBE QC, Lord Dyson PC, Sir Bernard Eder, Lord Howard CH PC QC, Sir Ivan Lawrence QC, Lord Millett PC QC, Lord Pannick QC, Professor Richard Susskind OBE, Lord Trimble PC, Rosalind Wright CB QC, Lord Young CH PC DL
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From: David Nanopoulos <nanopoulo@dun.org>
Sent: 19 March 2021 22:04
To: 'jonathan.turner@uklfi.com' <jonathan.turner@uklfi.com>
Cc: UN Treaty <treatysection@un.org>
Subject: FW: Rome Statute of the International Criminal Court - Accession by Palestine

Dear Mr. Turner,

Pursuant to a constant practice, the Secretary-General, as depositary of multilateral treaties, does not share with third-parties, or publish, copies of original instruments deposited with him. The official document in this regard is depositary notification C.N.13.2015.TREATIES-XVIII.10.

Yours sincerely,

David Nanopoulos

From: Jonathan Turner <jonathan.turner@uklfi.com>
Sent: Thursday, March 18, 2021, 8:14 PM
To: UN Treaty
Subject: Rome Statute of the International Criminal Court - Accession by Palestine

David Nanopoulos
Chief of the Treaty Section
UN Office of Legal Affairs

Dear Mr Nanopoulos

Please can you provide to us and/or publish a copy of the Instrument of Accession of Palestine to the Rome Statute of the International Criminal Court, whose deposit the Secretary-General accepted in January 2015, according to his notification dated 6 January 2015: <https://treaties.un.org/doc/Publication/CN/2015/CN.13.2015-Eng.pdf>.

This is an important document, especially as it was relied upon by the majority of the Pre-Trial Chamber I of the International Criminal Court in its ruling of 5 February 2021 regarding the territorial jurisdiction of the Court: see particularly paragraph 100 of the majority judgment https://www.icc-cpi.int/CourtRecords/CR2021_01165.PDF.

Please can you also clarify whether the Instrument of Accession was circulated by the Secretary-General to States Parties to the Rome Statute prior to his acceptance of the deposit. According to paragraph 100 of the majority judgment, it was circulated by the Secretary-General to States Parties before he accepted it, yet both the International Criminal Court and the British government have informed us that they do not have any copy of it.

Yours sincerely

Jonathan Turner

Jonathan Turner

Chief Executive

UK Lawyers for Israel

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