

To the Honorable Prosecutor of the International Criminal Court,

We have the honor to address you on behalf of the Governments of the Republic of Chile and the United Mexican States to refer for your investigation regarding the situation in the State of Palestine, under the provisions of Article 14, paragraph 1, of the Rome Statute of the International Criminal Court (hereinafter, the Statute), adopted on July 17, 1998, and in force as of July 1, 2002, to which Chile and the United Mexican States are also States Parties.

I. The situation

On 1 January 2015, the Government of the State of Palestine submitted a declaration under Article 12(3) of the Statute accepting the jurisdiction of the International Criminal Court (hereinafter, the Court or the ICC) over alleged crimes committed in the occupied Palestinian territory, including East Jerusalem, since 13 June 2014.

The State of Palestine acceded to the Rome Statute on 2 January 2015, and the Statute entered into force for the State of Palestine on 1 April 2015.

On 22 May 2018, according to Articles 13(a) and 14 of the Statute, the State of Palestine referred to the Prosecutor the situation in the State of Palestine since 13 June 2014, specifically requesting the Prosecutor to investigate, per the temporal jurisdiction of the Court, past, ongoing and future crimes within the court's jurisdiction, committed in all parts of the territory of the State of Palestine.

The Office of the Prosecutor announced the opening of an investigation in respect of the Situation in the State of Palestine on 3 March 2021, covering crimes within the jurisdiction of the Court.

Following a request of the previous ICC Prosecutor, Pre-Trial Chamber I of the Court ruled, on 5 February 2021, that the Court could exercise its jurisdiction over the Situation in Palestine, and that the territorial scope of the jurisdiction of the Court extends to Gaza and the West Bank, including East Jerusalem.

The signatories of this referral welcome the State of Palestine's pledge to continue supporting and cooperating with the Prosecutor and the Court, and encourage all States, including States Parties to the Rome Statute provide the cooperation and resources necessary for the investigation, to ensure accountability for the crimes committed in the State of Palestine.

The signatories are also aware that the Republic of South Africa, the People's Republic of Bangladesh, the Plurinational State of Bolivia, the Union of Comoros and the Republic of Djibouti have already referred the situation in the State of Palestine to the Prosecutor on 17 November 2023. However, encouraged by this example, we want to draw further attention of the Office of the Prosecutor to the situation in the State of Palestine, based on the gravity of this situation, especially, considering the Office of the Prosecutor needs to prioritize certain situations.

II. Subject and facts,

The referral of the State of Palestine of 22 May 2018 incorporated as matters to be subject to investigation any conduct, policies, laws, official decisions and practices that underlie, promote, encourage or otherwise make a contribution to the commission of crimes under the jurisdiction of the Court, in accordance with the terms of the Statute, including but not limited to crimes against humanity of article 7 and war crimes of article 8 of the Rome Statute.

The signatories are gravely concerned at the latest escalation of violence, including against civilians, and the alleged ongoing commission of crimes under the jurisdiction of the Court, not limited to, but particularly, starting with the attack of 7 October 2023 conducted by Hamas militants and the subsequent hostilities in occupied Palestinian Territory, including indiscriminate and disproportionate military operations of Israel against civilians in Gaza.

The signatories bear in mind Resolutions ES-10/21 and ES-10/22 of the General Assembly of the United Nations on the protection of civilians and upholding legal and humanitarian obligations and, in that regard, recall the obligation to respect and ensure the respect for international humanitarian law in all circumstances, the need to pursue accountability and the importance of ensuring investigations.

To further provide supporting documentation, the signatories bring to the attention of the Prosecutor the numerous situation reports on the situation in the Gaza Strip and the West Bank (including East Jerusalem) delivered by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) since 7 October 2023 and the letter dated 7 December 2023 of its Commissioner-General addressed to the President of the General Assembly, describing many incidents that may constitute crimes under the Rome Statute.

III. Actions required

Considering that one or more crimes within the jurisdiction of the Court appear to have been committed, the aforementioned State Parties, under Article 14 of the Statute, hereby request the Prosecutor to investigate the situation to determine whether one or more specific persons should be charged with the commission of such crimes that would have taken place concerning the situation in the State of Palestine, beginning on 13 June 2014, according to the powers granted in article 54 of the Rome Statute and in general to continue to implementing its Part 5, Investigation and Prosecution.

Finally, the aforementioned State Parties reiterate their full commitment to cooperate with the work of the Prosecutor of the International Criminal Court, which includes the Investigation of the situation in the State of Palestine.

All communications regarding this matter should be sent to the Embassies of the Republic of Chile and of the United Mexican States to the Kingdom of the Netherlands.