



Visit of the Minister of Justice of the Palestinian National Authority, Mr. Ali Khashan, to the ICC (22 January 2009)



Prosecutor Luis Moreno-Ocampo and Palestinian Minister Ali Khashan

BACKGROUND

• In accordance with the Rome Statute of the ICC (Statute), the Court's jurisdiction extends to war crimes, crimes against humanity and genocide committed on the territory of a State Party, or by a national of a State Party. In addition, alleged crimes can come under investigation and prosecution before the ICC if a relevant non-State Party or Parties voluntarily accept(s) the jurisdiction of the Court on an *ad hoc* basis (Article 12(3) of the Statute) or if the Security Council refers the situation to the Prosecutor (Article 13(b)).

• On 22 January 2009, the Prosecutor received Dr. Ali Khashan, Minister of Justice of the Palestinian National Authority, who briefed the Prosecutor on the current situation. The same day, Dr. Khashan, on behalf of the Palestinian National Authority, lodged a [declaration pursuant to Article 12\(3\) of the Statute with the Registrar of the Court](#), and the

Registrar acknowledged [receipt of the declaration](#).

• Since 27 December 2008, the OTP has also received 213 communications under Article 15 by individuals and NGOs, related to the situation context of Israel and the Palestinian Territories; some of them were made public by the senders. As per normal practice, the Office is considering all information, including open sources.

• The Office will carefully examine all relevant issues related to the jurisdiction of the Court, including whether the declaration by the Palestinian National Authority accepting the exercise of jurisdiction by the ICC meets statutory requirements; whether the alleged crimes fall within the category of crimes defined in the Statute, and whether there are national proceedings in relation to those crimes.

• This is a process the Office follows for each situation, as was done for the Central African Republic, Venezuela, and Iraq, and as is underway for Georgia, Colombia, Afghanistan and Côte D'Ivoire. Even when the Office received a referral from the UN Security Council concerning Darfur, issues of jurisdiction had to be independently assessed in order to determine whether or not to open an investigation.

• These are complex legal issues to assess. This independent judicial process is guided by the Rome Statute; the Prosecutor applies the same standard to all situations.

MEDIA LINKS HIGHLIGHTS¹

[International Criminal Court to consider Gaza investigation](#) – LA Times, 05/02/09

"Each legal area is complicated," Moreno-Ocampo said in a telephone interview from The Hague. "We move when we are completely sure. Our contribution is impartiality. We will consider this carefully and thoroughly."

[Prosecutor looks at ways to put Israeli officers on trial for Gaza 'war crimes'](#) – Times, 02/02/09

Part of the Palestinian argument rests on the Israeli insistence that it has no responsibility for Gaza under international law since it withdrew from the territory in 2006 Mr Moreno-Ocampo said. "It's very complicated. It's a different kind of analysis I am doing. It may take a long time but I will make a decision according to law."

[ICC Investigating Israel War Crimes Charges](#) – IPS, 03/02/09

Whether the ICC has jurisdiction in Gaza is expected to be a highly contentious legal issue, and the ICC investigation comes at a time of heightened debate over the legality of Israel's Gaza campaign under international law.

[Rights groups says laws of war violated in Gaza](#) – AP, 04/02/09

Groups — which include B'Tselem, the Palestinian Center for Human Rights, Amnesty International and Human Rights Watch — emphasize that investigations will take months and concede few venues exist for any trials. But they have to investigate potential violations on both sides.

[Editorials: Gaza: Welcome initiative by ICC](#) – Arab News, 03/02/09

The International Criminal Court (ICC) in The Hague is wisely reconsidering its decision last month that it was unable to mount a war

crimes prosecution over Israeli savagery in Gaza because it did not have jurisdiction.

[Israel forms war crime defence team](#) – Al Jazeera, 24/01/09

Ali Kashan, the Palestinian justice minister, met Luis Moreno-Ocampo, the ICC prosecutor, in The Hague on Thursday to discuss "allegations of crimes", a special adviser to the prosecutor said.

[War crimes convictions after Gaza?](#) – Al Jazeera, 22/01/09

There is a world of difference between establishing that war crimes have been committed, and then holding those responsible to account, says Mark S Ellis, the executive director of the International Bar Association (IBA). "Often, people view these as the same, but they are not under international law. There is a gap ... regarding the issue of accountability," Ellis says.

[« Le crime des crimes »](#) - Info Palestine, 01/01/09

«Les cours de justice sont faites pour protéger les victimes» dit Fouad Riad, ancien juge au Tribunal Pénal International pour l'ex-Yougoslavie. «Nous sommes des victimes et nous refusons toujours d'être membres de la CPI». Si les états arabes avaient ratifié le Statut de Rome, ajoute-t-il, ils auraient pu «avoir leur mot à dire» et présenter des cas devant la cour. «La justice internationale est importante et nous sommes en-dehors. C'est une grande perte».

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¹ The following excerpts do not necessarily reflect the view of the OTP. To read the full story, click on the title.