



Questions and answers

1. Did the representatives of the Palestinian National Authority (PNA) lodge a declaration referring to article 12(3) of the Rome Statute with the Registrar of the Court?

On 22 January 2009 Dr. Ali Khashan, Minister of the Palestinian National Authority (PNA) submitted a declaration to the Registrar of the Court, Ms. Silvana Arbia, referring to article 12(3) of the Rome Statute which allows States not Party to the Rome Statute to accept the jurisdiction of the Court.

The Palestinian National Authority referred to acts committed on the territory of Palestine since 1 July 2002.

The Court has not made any determination on the applicability of article 12(3) to this particular communication. A conclusive determination on its applicability would have to be made by the judges at an appropriate moment.

2. What steps did the Registrar take upon receipt of the declaration?

Pursuant to rule 44, sub-rule 2 of the Rules of Procedure and Evidence, the Registrar acknowledged receipt and informed the Palestinian National Authority of the effects in general of a declaration under article 12(3), namely the acceptance of the Court's jurisdiction with respect to crimes under article 5 and acceptance of the provisions of Part 9 of the Statute (international cooperation and judicial assistance).

The Registrar also clearly conveyed that her acknowledgment of receipt and provision of this information was without prejudice to the applicability of article 12(3) to this particular communication.

3. Does lodging of a declaration mean that the Prosecutor of the Court will start an investigation into a situation in Israel or the Palestinian Territories?

Even if article 12 (3) was found to be applicable to the present communication, lodging of such a declaration does not mean that the Prosecutor will open investigations. Article 12 (3) declarations relate only to the scope of the Court's jurisdiction. They do not trigger any investigation. An investigation can only be opened following referral of a situation to the Prosecutor by a State Party to the Rome Statute, referral of a situation to the Prosecutor by the United Nations Security Council, or authorization by a Pre-Trial Chamber of three judges to the Prosecutor to open an investigation.

The Prosecutor has indicated that he has received several communications related to the situation context of Israel and the Palestinian Territories and that he will first carefully examine all issues related to the jurisdiction of the Court, including whether the declaration by the Palestinian National Authority accepting the exercise of the ICC meets statutory requirements. If the Prosecutor determines there is a reasonable basis to begin an investigation, he would have to request a Pre-Trial Chamber to authorize an investigation. The Chamber would then determine independently if there is a reasonable basis to proceed with an investigation and if the case appears to fall within the jurisdiction of the Court.