

Palestine Accedes to the International Criminal Court (ICC), Rome Statute and other International Instruments

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Last January 6, United Nations Secretary General issued a note indicating that ICC's Rome Statute will enter into force as to the State of Palestine on April 1, 2015 (see [official note of Secretary General acting as depositary of Rome Statute](#)). On 7 January 2015, the President of the Assembly of States Parties to the Rome Statute welcomed the deposit by Palestine of the instruments of accession to the Rome Statute of the ICC as well as the agreement on the Privileges and Immunities of the International Criminal Court (APIC) (see [official ICC press release](#)).

On the very same day, ICC Registrar sent a letter to Palestine authorities (see [letter](#)) confirming the reception of a declaration made pursuant article 12(3) of Rome Statute: "Excellency, I hereby confirm receipt, on 1 January 2015, of your 31 December 2014 "Declaration Accepting the Jurisdiction of the International Criminal Court" which was lodged with me pursuant to article 12(3) of the Rome Statute, and in which you state that "the Government of the State of Palestine recognizes the jurisdiction of the Court for the purpose of identifying, prosecuting and judging authors and accomplices of crimes within the jurisdiction of the Court committed in the occupied Palestinian territory, including East Jerusalem, since 13 June 2014." Pursuant to Rule 4(2) of the Rules of Procedure and Evidence, a declaration under article 12(3) of the Rome Statute has the effect of the acceptance of jurisdiction with respect to the crimes referred to in article 5 of the Statute of relevance to the situation, as well as the application of the provisions of Part 9 of the Statute and any rules thereunder concerning to States Parties. I hereby accept the declaration and I have transmitted it to the Prosecutor for her consideration. This acceptance is without prejudice to any prosecutorial or judicial determinations on this matter".

In August 2014, ICC Prosecutor Fatou Bensouda explained in an article published in The Guardian her position with respect to the lack of jurisdiction of ICC on crimes committed in Gaza (see [article](#)). It must be recalled that on January 21, 2009, Palestine sent a similar declaration to ICC in these terms: « the Government of Palestine recognizes the jurisdiction of the Court for the purpose of identifying, prosecuting and judging the authors and accomplices of acts committed on the territory of Palestine since July 2002 ». A selected group of experts in international law considered in 2010 that this declaration made in January 2009 allowed ICC to exercise its jurisdiction on acts committed in Gaza (see [collective document](#) entitled: "Les effets de la reconnaissance par la Palestine de la compétence de la CPI"): the declaration made in 2009 by Palestine to ICC provoked an intensive exercise of other experts, some of them opposing, others supporting Palestinian initiative (see summary of submissions sent to ICC available [here](#)).

In addition to the accession to Rome Statute and the declaration made by Palestine to ICC (and that have provoked strong reactions of Israel and United States), there are other relevant international treaties to which Palestine is becoming State Party since Dec. 31, 2014 (and that have no provoked similar reactions). The complete list of treaties and Protocols as well as declarations (in total 18 instruments) that Palestine has acceded is the following:

1. Convention on the Political Rights of Women - 2. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the 'New York Convention')
3. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal - 4. Convention on Biological Diversity and the Cartagena Protocol on Biosafety to the Convention on Biological Diversity - 5. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) - 6. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) - 7. Convention on the Law of the Non-Navigational Uses of International Watercourses - 8. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents - 9. United Nations Convention against Transnational Organized Crime - 10. Convention on the Safety of United Nations and Associated Personnel and the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel - 11. United Nations Convention on the Law of the Sea - 12. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity - 13. Agreement on the Privileges and Immunities of the International Criminal Court - 14. Rome Statute of the International Criminal Court - 15. Declaration in accordance with the Rome Statute of the International Criminal Court - 16. The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons - 17. The Treaty on the Non-Proliferation of Nuclear Weapons - 18. Convention on Cluster Munitions

(Source: [UNISPAL note](#) reproducing the letter of President M. Abbas of Dec 31, 2014).

Concerning United Nations Convention of 1997 on International Watercourses, a [recent note](#) in a specialized site on international water regulations indicated that: "In addition, with Palestine's accession to the Convention, Israel is now the only state in the Jordan River Basin to not have joined the treaty. Jordan, Lebanon, and Syria - all riparians to the Jordan River Basin - became Parties to the Convention in 1999, 1999, and 1998, respectively".

This list of treaties must be completed with 14 treaties to which Palestine acceded in April 2014, that includes the following treaties: The Four Geneva Conventions of 12 August 1949 and the First Additional Protocol - The Vienna Convention on Diplomatic Relations - The Vienna Convention on Consular Relations - The Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict - The Convention on the Elimination of All Forms of Discrimination against Women - The Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex:

Regulations Concerning the Laws and Customs of War on Land - The Convention on the Rights of Persons with Disabilities - The Vienna Convention on the Law of Treaties - The International Convention on the Elimination of All Forms of Racial Discrimination - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - The United Nations Convention against Corruption - The Convention on the

Prevention and Punishment of the Crime of Genocide – The International Convention on the Suppression and Punishment of the Crime of Apartheid – The International Covenant on Civil and Political Rights – The International Covenant on Economic, Social and Cultural Rights.

Concerning this set of treaties signed by Palestine in April 2014, as well others treaties signed last December 31, it must be noted that no one questioned the capacity of Palestine as a State to accede to them or explained in a press conference that “we’re deeply troubled by the Palestinian action “ (as heard by United States top officials with reference to Rome Statute). This peculiar treatment concerning the Rome Statute recalls what can be read in a secret diplomatic cable of 2010 from the Israel Army ´s Head of International Law Department, Liron Libman, and made public by Wikileaks (see [cable](#) of February 23, 2010): “Libman noted that the ICC was the most dangerous issue for Israel and wondered whether the U.S. could simply state publicly its position that the ICC has no jurisdiction over Israel regarding the Gaza operation”. It also recall a very strange proposition made by United Kingdom a few hours before the voting of a resolution at United Nations General Assembly on November 29, 2012 on Palestine status, made public by Washington Post (see [note](#)) : ““The U.K. suggested that it might vote “yes” if the Palestinian Authority offered assurances that it wouldn’t pursue charges in the International Criminal Court, but apparently came away unsatisfied”. Finally, this peculiar treatment concerning the Rome Statute confirms the public declarations made by United States Ambassador to the United Nations, Samantha Power. In an [article](#) entitled: “US is ‘absolutely adamant’ that Palestine not go to ICC and wreck the peace process — Power”, the current representative of United States before United Nations in New York declared “The ICC is of course something that we have been absolutely adamant about. Secretary Kerry has made it very, very clear to the Palestinians, as has the President. I mean, this is something that really poses a profound threat to Israel” (sic). To affirm publicly that an international body like the ICC “really poses a profound threat” to a country considered as an ally could be understood as a confession.

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