

HRN Supports the Arrest Warrants Issued by the ICC against Israeli Prime Minister Netanyahu and former Defense Minister Gallant. They Must be Held Accountable for War Crimes and Crimes against Humanity Committed Against Palestinian Civilians

HRN welcomes the recent news from Pre-Trial Chamber I of the International Criminal Court (ICC) regarding the following three matters in “the Situation in the State of Palestine” case that it announced on 21 November 2024.¹

- The Chamber issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and recently-dismissed Israeli Defense Minister Yoav Gallant for alleged war crimes and crimes against humanity committed during the conflict in Gaza since October 2023.
- The Chamber issued an arrest warrant for Hamas leader Mohammad Deif for alleged war crimes and crimes against humanity committed during the conflict. Notably, the Israeli military announced his killing in an air strike last July, which has not been confirmed by Hamas.
- The Chamber released two decisions rejecting a request and two challenges against the ICC’s actions in the case by the Israeli government.

1. The Arrest Warrants

In issuing the arrest warrants against Netanyahu and Gallant, the Chamber judges stated that there were “reasonable grounds to believe” that both bore “criminal responsibility” for alleged crimes in their official conduct during the Gaza conflict including “the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts.”

The Chamber also stated that there were reasonable grounds to believe that Netanyahu and Gallant “intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their survival,” including by “impeding” or putting “conditions” on the ability of humanitarian groups to provide aid, food, and other supplies to people in Gaza as well as cutting off electricity and fuel supplies which had a “severe impact” on access to water the ability of hospitals to provide adequate care. Overall, they “created conditions of life calculated to bring about the destruction of part of the civilian population in Gaza,” resulting in civilian deaths, including the deaths of children from malnutrition and dehydration. It also found the conduct without military need or justification.

The warrants are nominally classified as secret, but the Chamber decided to release information about them because the alleged criminal conduct appears to be ongoing, and it is in the interest of the victims and families to be made aware of their existence. The arrest warrants obligate the ICC’s 124 member states to arrest the three persons if found in their territory and greatly narrow the Netanyahu administration’s diplomatic influence and credibility.

2. The Decisions Rejecting Israel’s Request and Challenges

The Chamber also rejected the government of Israel challenge to the ICC’s jurisdiction due to its non-consent, stating that the Court’s jurisdiction was on the basis of territorial jurisdiction over the state of

¹ <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>

Palestine, previously determined by the Chamber, which does not require Israel's consent. It further held that challenges to jurisdiction were premature when made before the arrest warrants were issued.

The Chamber also rejected Israel's request for consideration of arrest warrant applications to be halted because of a lack of notification of an investigation. In doing so, the Chamber referred to its previous notification of an investigation in 2021, following which Israel did not request deferral at the time, and the Chamber found that the parameters of the investigation have remained the same, thus not requiring a new notification.

3. Recommendations

HRN welcomes the ICC Chamber's issuance of arrest warrants and decisions, and we request that states facilitate the ICC's goals of providing accountability for grave violations of international criminal law by Israeli officials, beginning with Prime Minister Netanyahu and former Defense Minister Gallant, as well as to help build pressure against the government of Israel to end the conflict and ongoing violations against civilians in Gaza, including by:

- Respecting and supporting the ICC's arrest warrants, and reinforcing the legitimacy of the ICC and its decisions through diplomatic statements;
- Calling for an immediate ceasefire by Israeli and Hamas forces; and
- Supporting and applying sanctions and a binding arms embargo against the government of Israel as well as other forms of pressure including appropriate diplomatic and economic measures and the unseating of Israel's government from the UN General Assembly until it ends its ongoing serious violations.