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Palestine/ICC:

What legal obligations for EU and Member States?

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Summary

The December 2019 announcement by the Prosecutor of the International Criminal Court (ICC) that criteria to open an investigation in the case of Palestine were met was received with hope by victims and allies of justice. While waiting for a formal investigation to be opened, EuroMed Rights has looked into the legal and political obligations of the EU and its Member States in relation to the mandate of the ICC.

This report aims to sum up the course of the case of Palestine before the ICC and the EU's architecture to uphold international accountability, both before and after an investigation is opened. It gives special attention to the cooperation scheme between the EU and its Member States with the ICC, looking also at the recorded practice of the EU in this regard.

The report proposes an assessment of the EU's position towards the course of the case of Palestine before the ICC and concludes with EuroMed Rights' own recommendations.

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I- THE CASE OF PALESTINE BEFORE THE ICC

In November 2012, [resolution 67/19](#) of the United Nations General Assembly (UNGA) granted non-member observer state status to Palestine. This decision facilitated the later declaration lodged by Palestine under article 12(3) of the Rome Statute¹ accepting jurisdiction of the International Criminal Court (ICC) on 1 January 2015. The following day, Palestine deposited its instrument of accession to the UN Secretary-General. It entered into force on 1 April 2015. The initial declaration under article 12(3) detailed that jurisdiction would cover reported crimes committed in the Occupied Palestinian Territories (OPT), including East Jerusalem, since 13 June 2014. The prosecutor opened a preliminary examination on 16 January 2015 to determine whether the Rome Statute criteria for opening an investigation were met.

In an attempt to increase the conformity of Palestine with the ICC architecture, Palestine ratified the Kampala amendments on 26 June 2016, thus ratifying the amendments on the crime of aggression. On 22 May 2018, pursuant to articles 13(a) and 14 of the Rome Statute, the Government of Palestine ("Palestine"), a State Party to the Rome Statute, referred to the Prosecutor the situation in Palestine since 13 June 2014, with no end date, thus allowing the Prosecutor to directly open an investigation should the legal criteria be met, without requesting Pre-Trial Chamber's authorisation before proceeding to open an investigation.

On 20 December 2019, the Prosecutor concluded that all the statutory criteria under the Rome Statute for the opening of an investigation were met. However, instead of directly opening the investigation, the Prosecutor decided to request, pursuant to article 19(3) of the Rome Statute, from Pre-Trial Chamber I a jurisdictional ruling on the scope of the territorial jurisdiction of the ICC under article 12(2)(a) of the Rome Statute in Palestine.²

On 28 January 2020, ICC Pre-Trial Chamber I issued an order setting the procedure and the schedule for the submission of observations on the Prosecutor's request under article 19(3) of the Rome Statute related to the scope of the ICC's territorial jurisdiction in the Situation in the State of Palestine.

II- THE EU AND THE ICC: THE LEGAL FRAMEWORK

In general terms, the European Union (EU) has a solid position regarding accountability and international criminal justice for past and ongoing atrocities. The current political and legal frames governing the relations and approach of the EU towards the ICC were laid down in the Council's Common Position 2001/443/CFSP of 11 June 2001³ and Common Position 2003/444/CFSP of 16 June 2003⁴, both followed up in 2002 and 2004 respectively by two Action Plans. In 2006, by a decision of the Council, an [agreement](#) between the ICC and the EU on cooperation and assistance was approved.⁵

¹ See: <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf> [7.1.2021]

² More information at <https://www.icc-cpi.int/Pages/item.aspx?name=20191220-otp-statement-palestine> [7.1.2021]

³ OJ L 155, 12.6.2001, p. 19-20

⁴ OJ L 150, 18.6.2003, p. 67-69

⁵ OJ L 115, 28.4.2006, p. 50-56

Besides the EU's commitment to push for universal support of the ICC, the agreement also clears the path for the relation between the EU and the ICC once an investigation is open. This includes regulating the exchange of documentation (art. 7 and 9), the request of information by the ICC to the EU during the process of investigation (art. 11) or the provision of facilities and services, including support at the field level during the investigative process (art. 12). It is relevant to note here that the agreement only binds the EU and its institutions. However, given that all EU Member States are party of the Rome Statute, and that the agreement is based on it, all applicable legal dispositions therein also require EU Member States to undertake consistent action to cooperate with the ICC. The prompt execution of arrest warrants, by virtue of article 86 and 87 of the Rome Statute, is an important aspect of the obligation to cooperate. Failure to do so, be it the EU or any of its Member States, *may* lead the ICC to refer the matter to the Assembly of State Parties (ASP).⁶

Beyond the main instruments described above, the EU developed complementary mechanisms to support its commitment to uphold international accountability. With the establishment of the ICC, the EU took extra measures to operationalise its obligations and those of Member States under the Rome Statute. Council Decision 2002/494/JHA of 13 June 2002⁷ established what is informally known as the "Genocide Network", a group of national contact points for the exchange of information concerning the investigation and prosecution of genocide, crimes against humanity and war crimes. Council Decision 2003/335/JHA of 8 May 2003⁸ aims to "increase cooperation between national units in order to maximise the ability of law enforcement authorities in different Member States to cooperate effectively in the field of investigation and prosecution of persons who have committed or participated in the commission of genocide, crimes against humanity or war crimes."

In 2011, the EU adopted Council Decision [2011/168/CFSP](#) of 21 March 2011 on the International Criminal Court,⁹ which repealed Common Position 2003/444/CFSP of 16 June 2003. A Council decision is one of the very few legally binding EU measures on foreign policy. The Council of the EU and the High Representative of the Union for Foreign Affairs and Security Policy are responsible for coordinating the measures taken by the EU and EU countries for advancing universal support to the Rome Statute¹⁰, guaranteeing the ICC's independence, supporting its effective functioning, the cooperation with the ICC and the principle of complementarity. This decision also calls for the Action Plan¹¹ agreed upon on February 2004 to be adapted.

⁶ Art. 87.7 of Rome Statute. This is the only option in the case of Palestine, as the situation was not referred to the ICC by the United Nations Security Council (UNSC).

⁷ OJ L 167, 26.06.2002, p. 1-2

⁸ OJ L 118, 14.05.2003, p. 12-14

⁹ OJ L 76, 22.3.2011, p. 56-58

¹⁰ The EU's actions on achieving universality and full implementation of the Rome Statute between 2002 and 2013 can be found in this [answer](#) to the ICC Assembly of State Parties (ASP).

¹¹ PSC 5742/04, 28.1.2004, https://register.consilium.europa.eu/doc/srv?l=EN&f=ST_5742_2004_INIT [7.1.2021]

The ensuing Action Plan¹² – valid today – further develops Council Decision 2011/168/CFSP, establishing certain organs and regulating their tasks and those of other European institutions in relation with the ICC:

- **International Criminal Court sub-area of the Public International Law Working Group (COJUR ICC).** This sub-group within the COJUR working group of the Council is responsible for establishing the common EU approach to matters concerning international criminal law from the perspective of the Council in the context of the Common Foreign and Security Policy (CFSP). Their meetings take place from four to five times a year and are chaired by the presidency of the Council, thus rotating every six months. The COJUR ICC may also hold informal meetings with other relevant actors, such as the ICC, international organisations, third countries and non-governmental organisations;
- **The EU Focal Point for the ICC** is stationed at the European External Action Service (EEAS) with the mission of assisting in ensuring effective coordination. EU Member States must establish similar bodies – **National Focal Points for the ICC** – which have to put in place a network to coordinate common policy;
- It mandates **EU Member State** coordination, including through posting dedicated ICC staff in New York and The Hague representations, mainstreaming ICC at national level and strengthening cooperation on the investigation and prosecution of genocide, crimes against humanity and war crimes.¹³ These requirements enable the EU and its Member States to work towards effective cooperation between the ICC and the UN, as required in the Action Plan;
- It expects the **EEAS** to ensure that **EU** delegations have access to experts and that there is a dedicated monitoring in those countries where the ICC is carrying out a preliminary examination or investigation;
- It mandates the **European Commission** to focus on the financing of relevant programmes under the EU budget on the ICC and international accountability;
- It instructs the **European Parliament** to be informed about the above when appropriate.

It is worth mentioning here that subsequent policy documents and legislation have mainstreamed the EU's commitment to international accountability. For instance, the mandate of the **EU's Special Representative for Human Rights** also focuses on international humanitarian law, international criminal justice and the implementation of Council Decision 2011/168/CFSP on the ICC.¹⁴ The **EU Action Plan for Human Rights 2020-2024** also states that support towards the ICC is “a cornerstone in fighting impunity and build networks to promote the universality and integrity of the Rome Statute and its principle of complementarity”. It also recognises as a main challenge the “widespread impunity for human rights violations and attacks on the role of the International Criminal Court.”¹⁵

¹² PSC 12080/11, 12.7.2011, <https://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2012080%202011%20INIT> [7.1.2021]

¹³ OJ L 118, 14.5.2003, p. 12-14

¹⁴ OJ L 62, 1.3.2019, p. 12-15

¹⁵ EU Action Plan on Human Rights and Democracy 2020-2024. Available at: <https://ec.europa.eu/transparency/regdoc/rep/10101/2020/EN/JOIN-2020-5-F1-EN-ANNEX-1-PART-1.PDF> [7.1.2021]

III- COOPERATION OF THE EU AND ITS MEMBER STATES WITH THE ICC: LAW AND PRACTICE

The duty to cooperate with the ICC imposed on States Parties by the Rome Statute, and thus on EU Member States, is twofold: a general commitment to cooperate (Article 86), and an obligation to amend their domestic laws to permit cooperation with the Court (Article 88).¹⁶

According to Article 86 "States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court." This general requirement is supplemented by further articles of the Rome Statute and the ICC's Rules of Procedure and Evidence¹⁷ that govern specific aspects of cooperation in such contexts as the arrest and surrender of individuals and the collection of evidence.

Arrest and surrender

The obligation of States Parties to arrest and surrender accused persons is found in several articles of the Rome Statute. The general obligation to "cooperate fully with the Court in its investigation and prosecution of crimes" of Article 86 is supplemented by Article 89, which specifically addresses "surrender of persons to the Court." Under Article 89(1), the Court can transmit a request for the arrest and surrender of a person, together with material supporting that request, to a State on the territory of which that person may be found. The Statute is clear as to the obligation of States Parties upon receiving such a request: they must comply. Equally, the EU and its Member States should avoid non-essential contacts with individuals subject to an arrest warrant issued by the ICC.¹⁹

What has the EU done to assist the ICC in the execution of arrest warrants?

In the case of Sudanese President Omar al-Bashir, his travels and attendance at meetings abroad has been an ongoing concern and EU Member States have never allowed al-Bashir on their territories since he became subject to the ICC arrest warrants. The EU has also avoided situations in which al-Bashir attends summits where the EU is a host or co-host. *"The EU has a policy on non-essential contacts with individuals subject to an arrest warrant issued by the ICC. President Omar al-Bashir did not attend the EU-League of Arab States Summit. (...) The EU does not provide financial support to the Government of Sudan, including the Sudanese security forces. EU-Sudan relations continue to be impacted by the action of the ICC and the country's decision not to ratify the revised Cotonou Agreement."*¹⁸

¹⁶ Moreover, the Rome Statute also observes the possibility for States Parties to conclude specific agreements with the ICC on cooperation and assistance, and also on specific matters and timings for the effective fulfillment of the ICC's mandate. The following states have concluded agreements with the ICC: [Austria](#), [Belgium](#), [Denmark](#), [Finland](#), [the Netherlands](#) and [the UK](#) among others.

¹⁷ Rules of Procedure and Evidence of the ICC. Available at: <https://www.icc-cpi.int/iccdocs/pids/legal-texts/rulesprocedureevidenceeng.pdf> [7.1.2021]

¹⁸ https://www.europarl.europa.eu/doceo/document/E-8-2019-000878-ASW_EN.html [7.1.2021]

¹⁹ For COJUR-ICC Working Party, essential contacts "could be further defined as those which are strictly required for carrying out core diplomatic, consular and other activities and/or those activities which are UN-mandated or which arise from a legal obligation (e.g.,

Investigation and evidence gathering

Article 93 of the Rome Statute reaffirms the obligation of States Parties to comply with requests for assistance from the Court, in accordance with the provisions of Part 9 (Articles 86-102) of the Rome Statute and pursuant to their national procedures.

Part 9 identifies the many precise forms of cooperation that States Parties are obliged to provide to the Court, and refers specifically to the production of evidence. States Parties are required to facilitate the ICC's requests for assistance in, inter alia:

- identifying and tracking persons or things;
- taking evidence and testimony under oath as well as producing evidence;
- questioning individuals;
- examining places or sites, and exhuming and examining grave sites;
- executing searches and seizures;
- effecting the provision of records and documents;
- guaranteeing the preservation of evidence;
- and provide all other types of assistance "not prohibited by the law of the requested State" and which will facilitate investigations or prosecutions.

Enforcement of forfeiture orders and ICC fines

The Rome Statute enables the ICC to issue orders for the forfeiture of property considered to be derived from crimes within the ICC's jurisdiction. In order to effect forfeiture, the Court is also empowered to issue orders freezing assets that are the proceeds of crime located within the territories of States Parties as well as fines against individuals.

Accordingly, under the Rome Statute and the Rules of Procedure and Evidence, States Parties must ensure that they have laws and procedures in place to perform four primary functions: (1) trace, freeze, and seize the proceeds of ICC crime; (2) effect forfeiture of the proceeds of crime; (3) collect fines; and (4) transfer to the Court any property or proceeds they obtain as a result of their enforcement of a judgment of the Court.

In 2013, the EU also adopted guidelines on ensuring third state cooperation with the ICC.²⁰ The COJUR-ICC Working Party noted that "*non-cooperation constitutes one of the most serious challenges to the effective functioning of the ICC. In its view, non-cooperation can be defined as the omission of an act by a state which is under a legal obligation to take certain action vis-à-vis the ICC.*"²¹

under headquarters agreements), and has noted that the specific circumstances of a particular case would be relevant when determining what is an essential contact for these purposes." COJUR-ICC 16993/13 (27.12.2013) <https://data.consilium.europa.eu/doc/document/ST-16993-2013-INIT/en/pdf> [7.1.2021]

²⁰ COJUR-ICC 16993/13 (27.12.2013) <https://data.consilium.europa.eu/doc/document/ST-16993-2013-INIT/en/pdf>

²¹ Ibid (n 16)

How does the EU respond to third state non-cooperation?

Statements are regularly issued by the EU High Representative and the spokesperson in response to failures by State Parties to the Rome Statute to fulfil their duties to cooperate with the ICC in the execution of arrest warrants. In particular, statements have been made regretting the failure of Nigeria, Chad and the Central African Republic to act upon the warrants for the arrest of Sudanese President Omar al-Bashir and Defence Minister Abdel Raheem Muhammed Hussein upon their visits to the mentioned countries. On 27 February 2014, the High Representative issued a strong statement²² expressing concern at President al-Bashir's visit to the Democratic Republic of Congo (DRC), a State Party to the Rome Statute and direct beneficiary of ICC proceedings, and called upon the DRC to abide by its obligations under international law with regards to the arrest and surrender of President al-Bashir. The Council's inclusion of clauses that remind states of their obligations to cooperate with the Court in relevant Council Conclusions is one further way in which the EU acts to lend political support to the integrity of the Statute. For example, the Council has included clauses reminding the Sudanese Government of its obligations to cooperate with the ICC by reason of Security Council resolution 1593, referring the situation in Sudan to the ICC.²³

In 2015, the then-VP/HR Federica Mogherini answered to a parliamentary question on the EU's handling of Omar al-Bashir's visit of South Africa that "the EU underlines in all its contacts with South African authorities the importance of effective and comprehensive cooperation with the ICC. Prior to President al-Bashir's arrival in South Africa (SA), EEAS Africa Managing Director Nick Westcott recalled the EU's position on ICC to the Director General of the South African Foreign Affairs Ministry, Jerry Matjila, whom he met in the margins of the African Union (AU) summit. On 14 June the EU issued a statement calling on South Africa to execute the arrest warrant against any ICC indictee present in the country. On 19 June Mr Westcott met with the South African ambassador in Brussels, Mxolisi Nkosi, to express the EU's disappointment of SA's handling of the case. The EU Delegation also approached the South African Foreign Affairs Ministry on the ICC issue."²⁴

²² Statement 140227/01 of 27.2.2014. Available at: https://eeas.europa.eu/archives/ashton/media/statements/docs/2014/140227_01_en.pdf [7.1.2021]

²³ Council Conclusions 14623/19 of 9 December 2019 on Sudan. Available at: <https://data.consilium.europa.eu/doc/document/ST-14623-2019-INIT/en/pdf> [7.1.2021]

²⁴ https://www.europarl.europa.eu/doceo/document/E-8-2015-010694-ASW_EN.html [7.1.2021]

IV- POSITIONS BY THE EU AND ITS MEMBER STATES ON THE ICC, ACCOUNTABILITY AND PALESTINE

The accession of Palestine to the Rome Statute in 2015 was not followed, as is normally the case, by an EU welcoming statement. On the contrary, during the United Nations Security Council (UNSC) meeting held on 15 January 2015, the EU commented as follows:

“On 2 January 2015, Palestine deposited instruments of accession to the Rome Statute, which was welcomed by the President of the Assembly of States Parties to the Rome Statute on 7 January. The European Union calls again on the Palestinian leadership to use its international status constructively and not to weaken efforts by partners to bring the parties back to the negotiating table.²⁵”

The only EU Member States to positively welcome the accession were Sweden²⁶ and Finland²⁷. Many others, such as the Netherlands²⁸, gave a timid appreciation of the accession. Spain, on the other extreme, commented on the same UNSC meeting on 15 January 2015 that:

“(…) the Spanish Minister has conveyed to the Palestinian leaders the urgency of curtailing any further step regarding the International Criminal Court, including any request to the Prosecutor to start investigations.”²⁹

During the last years, the ICC has come under intensified pressure for its proceedings on Afghanistan and Palestine. Starting in 2019, the US began threatening the ICC with sanctions, which materialised in September 2020.³⁰ In response to this unprecedented hostile climate against the ICC, the EU has shown a steady tone of support for the ICC and accountability, including on the Day of International Criminal Justice ([Mogherini](#), July 2019; [Borrell](#), July 2020) and in response to US sanctions against the ICC ([Borrell](#), September 2020).

On the same occasion, some EU Member States have aligned with the support afforded by the EU in defending the ICC from the sanctions announced by the US in September 2020.³¹ Despite these important and general statements of support, certain EU Member States have taken part in the current process unfolding at Pre-Trial Chamber I, expected to rule on the scope of territorial jurisdiction of the ICC in Palestine.

²⁵ UNSC S/PV.7360,15.01.2015, p.44. Available at: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/spv_7360.pdf [7.1.2021]

²⁶ http://www.riksdagen.se/sv/Dokument-Lagar/Fragor-och-anmalningar/Svar-pa-skriftliga-fragor/Straffrihet-i-Mellanostern_H212602/ [7.1.2021]

²⁷ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP14/GenDeb/ASP14-GenDeb-Finland-ENG.pdf [7.1.2021]

²⁸ <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2015Z00031&did=2015D02285> [7.1.2021]

²⁹ *idem* (n 25, p. 19)

³⁰ For a complete overview of the US threats, sanctions and visa revokes against and to the ICC and its personnel, together with a solid analysis of this US policy, see: <https://www.hrw.org/news/2020/12/14/us-sanctions-international-criminal-court> [7.1.2021]

³¹ These countries were [Germany](#), [France](#), [Belgium](#), [Spain](#) and [Ireland](#), among others.

As part of the procedure set by Pre-Trial Chamber I, interested parties in the matter and other actors (such as States, organisations and/or individuals) could submit written observations (or *amici curiae*) on the question of jurisdiction raised by Prosecutor Fatou Bensouda. Germany³², Austria³³, the Czech Republic³⁴ and Hungary³⁵ have submitted *amici curiae* maintaining that the ICC could not initiate an investigation as Palestine does not qualify as a state under the Rome Statute. Commentators invested in the topic have pointed out that “Germany’s stance complicates the EU’s collective position on both the role of the court and methods for discouraging Israel from violating international law.”³⁶ As such, Israeli media view the move by these EU Member States in a similar fashion.³⁷

V- CONCLUSIONS

- The EU and its Member States have a supportive role in relation to the ICC, its work and international accountability in general. This is their main role during the preliminary examination phase when it comes to a specific situation under consideration.
- The EU and its Member States have an assisting role in relation to the ICC only when a given situation is officially under investigation. This can include the transfer of documentation, know-how and any other relevant information to the ICC; the facilitation and access to certain places key to carry out the ICC’s investigation; diplomatic support; the arrest and surrender of persons to the ICC; the freezing of assets of persons under investigation, among others (Part 9 of the Rome Statute).
- The EU and its Member States have a role in ensuring that their jurisdiction-based businesses and companies, charities and individuals do not become involved in illegal acts of any kind abroad. The ICC is also empowered to issue orders for the forfeiture of property considered to be derived from crimes within the ICC’s jurisdiction and freeze assets that are the proceeds of crime located within the territories of States Parties. The EU and its Member States should avoid non-essential contacts with individuals subject to arrest warrants issued by the ICC.
- From the perspective of the ICC, it has been observed that public diplomatic and political support lent to the ICC by states and international institutions such as the EU are a “critical tool to protect and enhance cooperation with the Court”.³⁸

³² Available at: https://www.icc-cpi.int/CourtRecords/CR2020_00464.PDF [14/01/2021]

³³ Available at: https://www.icc-cpi.int/CourtRecords/CR2020_01018.PDF [14/01/2021]

³⁴ Available at: https://www.icc-cpi.int/CourtRecords/CR2020_00996.PDF [14/01/2021]

³⁵ Available at: https://www.icc-cpi.int/CourtRecords/CR2020_01047.PDF [14/01/2021]

³⁶ René Wildangel, ECFR “A chance for accountability: Why Germany should welcome an ICC investigation into the situation in Palestine” (29/04/2020). Available at: https://ecfr.eu/article/commentary_a_chance_for_accountability_why_germany_should_welcome_an_icc_in/ [14/01/2021]

³⁷ Tovah Lazaroff, The Jerusalem Post “Six countries tell ICC: We are against Israel war-crime lawsuits” (15/02/2020). Available at: <https://www.jpost.com/israel-news/six-countries-tell-icc-they-oppose-war-crimes-suits-against-israel-617698> [14/01/2021]

³⁸ ICC-ASP/15/9, 11.10.2016, p. 6. Available at: https://asp.icc-cpi.int/iccdocs/asp_docs/ASP15/ICC-ASP-15-9-ENG.pdf [7.1.2021]

VI- RECOMMENDATIONS IN THE CASE OF PALESTINE

Recommendations for the EU:

- The EU should continue to support accountability internationally as mandated by its own policy and commitments on the matter;
- The EU should cooperate with the ICC in all phases of their proceedings, especially upon the opening of the investigation, where the agreement between the EU and ICC would start effectively applying. By virtue of this agreement, the ICC could, for instance, demand information to the EU in relation to its policies on differentiation and labelling or other.
- The EU should thoroughly review its relations with Israel, the Palestinian Authority and the authorities in Gaza to assess whether its policy or cooperation actions may be complicit with any of the human rights violations under investigation, in an attempt to protect its legal order.
- The EU should include clauses in its statements and conclusions reminding Israel and the Palestinian Authority of their obligations to cooperate with the ICC, as the EU regularly does with regard to all states and parties under ongoing ICC investigations.

Recommendations for EU Member States:

- EU Member States should increase their public support to the ICC, especially protecting its public image and work from smearing and should support international accountability, also by implementing and enlarging universal jurisdiction in their legal order.
- EU Member States should be wary of the implications of their actions vis-à-vis all duty-bearers for any alleged crime in Palestine, as these alleged wrongdoings may amount to international crimes and compromise third states domestic legal requisites in the realms of:
 - European binationals involved in violations in Palestine;
 - Suspected or condemned individuals which might want to establish economic activities, enter and/or reside in the EU;³⁹
 - Charities/Companies with links to an EU Member State that might be involved in violations in Palestine;
 - Companies with links to an EU Member State that are trading arms with any of the actors under investigation⁴⁰ while evidence of unlawful use of these arms is reported;⁴¹
 - Companies that maintain cooperation in the military, judicial or legal domain with any of the actors under investigation.

³⁹ OJ L 118, 14.5.2003, p.12-14

⁴⁰ Since 1998, the value of goods exported or approved in the EU to Israel has been of €4.4bn. For the same period, the amount is of €415k to Palestine. Data available at: <http://enaat.org/eu-export-browser> [07.01.2021]

⁴¹ A/HRC/40/CRP.2, 18.3.2019. Available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_74_CRP2.pdf [07.01.2021]

- EU Member States should cooperate with the ICC as mandated by the Rome Statute (Part 9), including in matters of arrests and surrender and asset freezes, but also in relation to the whole array of matters necessary to provide assistance to the ICC in relation to its investigations and prosecutions.
- EU Member States should add core international crimes (crimes against humanity and war crimes) under the investigation of the ICC to the list of crimes over which Europol has competence.