



UNITED STATES SENATE

October 23, 2024

Päivi Kaukoranta
President of the Assembly of States Parties
International Criminal Court
Oude Waalsdorperweg 10
2597 AK, The Hague
The Netherlands

Dear President Kaukoranta,

I write you today with concern and a request for clarification regarding reported allegations of misconduct by Prosecutor Karim Khan against a member of staff. Public reports indicate that allegations of harassment surfaced in early May—just a few days before Prosecutor Khan applied for arrest warrants against the Prime Minister and Minister of Defense of Israel for alleged violations of law during the defensive Israeli-Hamas War. The timing of the allegations is troubling, and only compounds the other strong legal, jurisdictional, and prudential objections I have expressed regarding the Prosecutor’s decision to seek arrest warrants.

In the weeks before Prosecutor Khan applied for warrants, I worked with a bipartisan group of United States Senators to urge Prosecutor Khan to adhere to the Rome Statute in conducting his investigation. Specifically, on a May 1, 2024 phone call, this bipartisan group urged Prosecutor Khan to respect the principle of complementarity and to engage in good faith with Israeli officials before making any decision as to how to move forward against the State of Israel. As I explained on the call, as well as in my recent amicus filing before the Pre-Trial Chamber, it has been my consistent position that Israel is a robust democracy with an independent judiciary, and the Rome Statute as well as fundamental principles of fairness required the Prosecutor to engage with the Israeli government in the conduct of his investigation.¹ These principles apply with particular force given that Israel is not a party to the Rome Statute and has not consented to the jurisdiction of the International Criminal Court.

On May 20, 2024, Prosecutor Khan abruptly canceled a planned trip to Israel to meet with Israeli officials regarding allegations in Gaza and instead publicly announced his application for arrest warrants against the Prime Minister and Minister of Defense of Israel.² This decision took the United States Senate by surprise, and was inconsistent with the Prosecutor’s legal obligations. It has now come to my attention through media reports that Prosecutor Khan was facing allegations

¹ See, ICC-01/18-304-Corr, Written Observations Pursuant to Rule 103 of United States Senator Lindsey O. Graham, Originally Filed on 06 August 2024.

² See Statement of ICC Prosecutor Karim A. A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine, 20 May 2024.

of misconduct around the same time, and the resolution of this matter remains a mystery.³ The abrupt decision to cancel this visit to Israel, along with these contemporaneous allegations needs to be explained, and I request full transparency on the matter to ensure there is no conflict of interest. These media reports are disturbing, and I call for a release of the records pertaining to these allegations, including any decision not to open an investigation, and for an update on where this matter stands. Until such transparency is satisfactorily achieved, another cloud—a moral one—hangs over Prosecutor Khan’s abrupt decision to abandon engagement with Israel and seek arrest warrants.

Sincerely,



Lindsey O. Graham

Ranking Member

United States Senate Committee on the Judiciary

³ See Mark Hookham, *British lawyer who called for Netanyahu to be arrested over 'war crimes' denies misconduct following harassment claims*, DAILY MAIL, 19 October 2024. See also ICC-ASP/23/18, Annual Report of the Head of the Independent Oversight Mechanism, 18 October 2024, para. 37.