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INTERNATIONAL COURT OF JUSTICE

**LEGAL CONSEQUENCES ARISING FROM THE POLICIES
AND PRACTICES OF ISRAEL IN THE OCCUPIED PALESTINIAN TERRITORY,
INCLUDING EAST JERUSALEM**

(REQUEST FOR AN ADVISORY OPINION)

**WRITTEN STATEMENT OF THE GOVERNMENT
OF THE GRAND DUCHY OF LUXEMBOURG**

20 July 2023

[Translation by the Registry]

I. INTRODUCTION

1. On 30 December 2022, the General Assembly of the United Nations adopted resolution A/RES/77/247 on “Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem” in which it decided, in accordance with Article 96 of the Charter of the United Nations (hereinafter “the Charter”), to request the International Court of Justice (hereinafter “the Court”), pursuant to Article 65 of the Statute of the Court (hereinafter “the Statute”), to render an advisory opinion on the following questions:

“[C]onsidering the rules and principles of international law, including the Charter of the United Nations, international humanitarian law, international human rights law, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, and the advisory opinion of the Court of 9 July 2004:

- (a) What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?
- (b) How do the policies and practices of Israel referred to in paragraph 18 (a) above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?”

Luxembourg voted in favour of resolution A/RES/77/247, which was adopted by recorded vote with 87 votes in favour, 26 against and 53 abstentions.

2. By an Order dated 3 February 2023, the Court decided that “the United Nations and its Member States, as well as the observer State of Palestine, are considered likely to be able to furnish information on the questions submitted to the Court for an advisory opinion”. The Court fixed 25 July 2023 as the time-limit within which written statements on these questions may be presented to the Court. The observations which follow are presented by the Government of the Grand Duchy of Luxembourg (hereinafter “Luxembourg”) pursuant to that decision.

II. PRELIMINARY CONSIDERATIONS

3. This written statement on behalf of Luxembourg reflects its wish to contribute to the strengthening of the international order based on the rule of law, in which respect the Court has an essential part to play. In particular, Luxembourg, as a member of the international community, believes that the legal context which forms the subject of this request for an advisory opinion deserves to be further clarified. Luxembourg regards these questions as an appropriate subject for an advisory opinion, given the role of the General Assembly and its numerous resolutions on the situation in the Middle East¹.

¹ See, in particular, the preambles of the General Assembly resolutions on the Committee on the Exercise of the Inalienable Rights of the Palestinian People, reaffirming that “the United Nations has a permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy”, A/RES/57/107 (3 Dec. 2002); A/RES/58/18 (3 Dec. 2003); A/RES/74/10 (3 Dec. 2019); A/RES/75/20 (2 Dec. 2020); A/RES/77/22 (30 Nov. 2022).

4. Luxembourg fully recognizes the importance of the Court's advisory role. Before both the Security Council and the General Assembly, Luxembourg has been able to reaffirm its unfailing support for the Court as the principal judicial organ of the United Nations, the role conferred upon it by the Charter². The Court's opinions contribute to the predictability and stability of international relations and can play an important part in promoting the peaceful settlement of disputes between States. The General Assembly and the international community as a whole would therefore benefit from an advisory opinion on the legal consequences of the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.

5. The situation in the Middle East has been on the agenda of the United Nations since the latter was created, and evidently gives rise to issues that need to be clarified. Hence the situation in the Occupied Palestinian Territory raises a number of complex legal questions regarding the right of peoples to self-determination, occupation, annexation, international humanitarian law and human rights, as well as the *erga omnes* character of the obligations deriving from the latter. An opinion from the Court will enable light to be shed on these complex legal matters and thus contribute to bringing about a peaceful solution to the Israeli-Palestinian conflict in keeping with international law. In 2004, the Court delivered its previous opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, including East Jerusalem³. Whereas the 2004 Opinion dealt with a much more specific and limited subject, the present request for an opinion could cover a far wider range of human rights violations in the Occupied Palestinian Territory and clarify the consequences arising from them. It should be noted that the situation in the Occupied Palestinian Territory has changed significantly between 2004 and 2023.

6. Luxembourg attaches great importance to public international law and judicial settlement. Through this statement, and to the best of its ability, it wishes to set out its views on the jurisdiction of the Court and the exercise of its discretionary power to give the advisory opinion requested of it by the General Assembly, thereby contributing to the response to the questions submitted to the Court. Luxembourg is aware of the fact that the Court's advisory opinion will represent only one element, important as it may be, in a process which has long occupied both the General Assembly and the Security Council, and will continue to do so.

7. As a Member State of the European Union, Luxembourg fully supports the Union's stance on the Middle East peace process, as reflected in particular in the conclusions of the European Council on the subject⁴ and in the statements of the European Union⁵. It also refers to the

² See, for example, General Assembly, 77th session, 21st plenary meeting, agenda item 70: Report of the International Court of Justice, A/77/PV.21 (27 Oct. 2022).

³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 136 (hereinafter "*Advisory Opinion on the construction of a wall*").

⁴ See, in particular, the conclusions of the Council of the European Union of 14 May 2012 (ST 9909/12): <https://data.consilium.europa.eu/doc/document/ST-9909-2012-INIT/en/pdf>; its conclusions of 22 July 2014 (ST 11954/14): <https://data.consilium.europa.eu/doc/document/ST-11954-2014-INIT/en/pdf>; its conclusions of 17 Nov. 2014 (ST 15542/14): <https://data.consilium.europa.eu/doc/document/ST-15542-2014-INIT/en/pdf>; its conclusions of 20 July 2015 (ST 11075/15): <https://data.consilium.europa.eu/doc/document/ST-11075-2015-INIT/en/pdf>; its conclusions of 18 Jan. 2016 (ST 5328/16): <https://data.consilium.europa.eu/doc/document/ST-5328-2016-INIT/en/pdf>.

⁵ See, for example, the statement of the European Union at the 12th meeting of the EU-Israel Association Council (Brussels, 3 Oct. 2022): <https://www.consilium.europa.eu/media/59337/st13103-en22.pdf>.

jurisprudence of the European Court of Justice on aspects that are relevant for consideration of the questions submitted to the Court for an advisory opinion⁶.

III. THE JURISDICTION OF THE COURT TO GIVE AN ADVISORY OPINION ON THE QUESTIONS SUBMITTED TO IT, AND ITS POWER OF DISCRETION

8. The following observations will first address the question of whether the Court has jurisdiction to give the opinion which has been sought, and then consider whether there are compelling reasons for the Court to exercise its power of discretion so as to decline to accede to the General Assembly's request.

A. The jurisdiction of the Court

9. Under the terms of Article 65, paragraph 1, of the Statute, the Court "may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request". As the Court has observed, for example in its Advisory Opinion on the unilateral declaration of independence of Kosovo,

"[i]t is . . . a precondition of the Court's competence that the advisory opinion be requested by an organ duly authorized to seek it under the Charter, that it be requested on a legal question, and that, except in the case of the General Assembly or the Security Council, that question should be one arising within the scope of the activities of the requesting organ"⁷.

The request submitted by the General Assembly in its resolution A/RES/77/247 was made under Article 96, paragraph 1, of the Charter, according to which "[t]he General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question". The General Assembly is certainly therefore authorized to seek an advisory opinion from the Court.

10. Article 96, paragraph 1, of the Charter authorizes the General Assembly to request an advisory opinion from the Court "on any legal question". The first question submitted to the Court for an advisory opinion relates to the *legal consequences* arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, and from its occupation, settlement and annexation of the Palestinian territory occupied since 1967. The second question concerns the effect of the policies and practices of Israel on the *legal status* of the occupation. In replying, the Court is asked to consider the situation by reference to the rules and principles of international law. As the Court has previously remarked, questions "framed in terms of law and rais[ing] problems of international law . . . are by their very nature susceptible of a reply based on law"⁸. Hence,

⁶ Court of Justice of the European Union: judgment of the Court of 25 Feb. 2010 in case C-386/08, *Firma Brita GmbH v. Hauptzollamt Hamburg-Hafen*, EU:C:2010:91; judgment of the Court (Grand Chamber) of 21 Dec. 2016 in case C-104/16 P, *Council v. Front Polisario*, EU:C:2016:973; judgment of the Court (Grand Chamber) of 12 Nov. 2019 in case C-363/18, *Organisation juive européenne and Vignoble Psagot Ltd v. Ministre de l'Économie et des Finances*, EU:C:2019:954.

⁷ *Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal, Advisory Opinion*, I.C.J. Reports 1982, pp. 333-334, para. 21; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, I.C.J. Reports 2010 (hereinafter "*Advisory Opinion on the unilateral declaration of independence of Kosovo*"), p. 413, para. 19.

⁸ *Western Sahara, Advisory Opinion*, I.C.J. Reports 1975 (hereinafter "*Advisory Opinion on Western Sahara*"), p. 18, para. 15; *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 415, para. 25.

“[a] question which expressly asks the Court whether or not a particular action is compatible with international law certainly appears to be a legal question”⁹.

11. The questions posed by means of resolution A/RES/77/247 have been framed in terms of law and raise problems of international law. They ask the Court to interpret rules and principles of international law concerning fundamental aspects of the international legal order and of the United Nations system. Nor does the contingency that there may be factual issues underlying the questions alter their character as “legal question[s]” as envisaged in Article 96, paragraph 1, of the Charter¹⁰. There can thus be no doubt that this request for an advisory opinion addressed to the Court is of a legal character within the meaning of Article 65 of the Statute.

12. Nor does the fact that this question also has political aspects suffice to deprive it of its legal character¹¹. It is clear from the jurisprudence of the Court, as reiterated in its Advisory Opinion on the unilateral declaration of independence of Kosovo, that the Court “cannot refuse to respond to the legal elements of a question which invites it to discharge an essentially judicial task, namely, in the present case, an assessment of an act by reference to international law”¹². The Court has also made clear that “in determining the jurisdictional issue of whether it is confronted with a legal question, it is not concerned with the political nature of the motives which may have inspired the request or the political implications which its opinion might have”¹³. The Court further notes that “in situations in which political considerations are prominent it may be particularly necessary for an international organization to obtain an advisory opinion from the Court as to the legal principles applicable with respect to the matter under debate”¹⁴. The presence of political aspects connected with the questions posed by the General Assembly in its resolution A/RES/77/247 thus cannot detract from the legal nature of the request.

13. Luxembourg considers that both the questions submitted to the Court are sufficiently clear and precise in their wording. In any event, it should be recalled, as the Court duly observed in its Advisory Opinion on the construction of a wall, that a “lack of clarity in the drafting of a question does not deprive the Court of jurisdiction. Rather, such uncertainty will require clarification in interpretation”¹⁵ by the Court, which has to “identify the existing principles and rules, interpret them and apply them . . . , thus offering a reply to the question posed based on law”¹⁶. Moreover, “it is the clear position of the Court that to contend that it should not deal with a question couched in abstract

⁹ *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 415, para. 25.

¹⁰ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, I.C.J. Reports 1971 (hereinafter “*Advisory Opinion on South West Africa*”), p. 27, para. 40.

¹¹ *Legality of the Threat or Use of Nuclear Weapons*, *Advisory Opinion*, I.C.J. Reports 1996 (I) (hereinafter “*Advisory Opinion on the threat or use of nuclear weapons*”), p. 234, para. 13; *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 415, para. 27.

¹² *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 415, para. 27; *Advisory Opinion on the threat or use of nuclear weapons*, p. 234, para. 13; *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*, *Advisory Opinion*, I.C.J. Reports 1947-1948, pp. 61-62; *Competence of the General Assembly for admission of a State to the United Nations*, *Advisory Opinion*, I.C.J. Reports 1950, pp. 6-7; *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, *Advisory Opinion*, I.C.J. Reports 1962, p. 155.

¹³ *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 415, para. 27; *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*, *Advisory Opinion*, I.C.J. Reports 1947-1948, p. 61; *Advisory Opinion on the threat or use of nuclear weapons*, p. 234, para. 13.

¹⁴ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, *Advisory Opinion*, I.C.J. Reports 1980, p. 87, para. 33.

¹⁵ *Advisory Opinion on the construction of a wall*, pp. 153-154, para. 38.

¹⁶ *Ibid.*, p. 154, para. 38.

terms is ‘a mere affirmation devoid of any justification’, and that ‘the Court may give an advisory opinion on any legal question, abstract or otherwise’¹⁷.

14. The jurisdiction of the Court is established by the above-mentioned provisions of the Charter and the Statute. In the first place, the General Assembly is authorized by Article 96, paragraph 1, of the Charter to request an advisory opinion and has done so by resolution A/RES/77/247, duly adopted on 30 December 2022 by the necessary majority of the United Nations Member States present and voting, pursuant to Rule 86 of the General Assembly’s Rules of Procedure. It is also competent to make the request, since the latter concerns questions arising within the scope of its activities. And lastly, its request is for an opinion relating to questions of international law. Since the request was made in accordance with the Charter and both questions are of a legal character, Luxembourg considers that the Court has jurisdiction to reply to the request for an advisory opinion as submitted by the General Assembly.

B. The lack of compelling reasons to justify the Court declining to give an advisory opinion

15. The authority to give an advisory opinion vested in the Court by Article 65 of its Statute is of a discretionary nature¹⁸. The Court has recalled in this respect that “Article 65, paragraph 1, of its Statute, which provides that ‘[t]he Court may give an advisory opinion’, should be interpreted to mean that the Court has a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met”¹⁹. However, the purpose of advisory opinions is to provide the organs that request them with the elements of law necessary for their activities. The Court’s reply to a request for an advisory opinion “represents its participation in the activities of the Organization, and, in principle, should not be refused”²⁰. The Court has used its discretionary power very sparingly, noting that “[w]hen considering each request, it is mindful that it should not, in principle, refuse to give an advisory opinion”²¹. Indeed, the Court has never declined to give an advisory opinion.

16. In accordance with its settled jurisprudence, only “compelling reasons” may lead the Court to refuse to give an advisory opinion falling within its jurisdiction²². It should therefore be considered whether, in this instance, such “compelling reasons” exist, whereby three factors might be taken into

¹⁷ *Advisory Opinion on the threat or use of nuclear weapons*, p. 236, para. 15; *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*, *Advisory Opinion*, I.C.J. Reports 1947-1948, p. 61.

¹⁸ *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 415, para. 29; *Advisory Opinion on South West Africa*, p. 27, para. 41; *Advisory Opinion on Western Sahara*, p. 21, para. 23; *Advisory Opinion on the threat or use of nuclear weapons*, pp. 234-235, para. 14.

¹⁹ *Advisory Opinion on the construction of a wall*, p. 156, para. 44; *Advisory Opinion on the unilateral declaration of independence of Kosovo*, pp. 415-416, para. 29.

²⁰ *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase*, *Advisory Opinion*, I.C.J. Reports 1950, p. 71; *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, *Advisory Opinion*, I.C.J. Reports 1999 (I), pp. 78-79, para. 29; *Advisory Opinion on the construction of a wall*, p. 156, para. 44; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, *Advisory Opinion* (hereinafter “*Advisory Opinion on the separation of the Chagos*”), I.C.J. Reports 2019, p. 113, para. 65.

²¹ *Advisory Opinion on the threat or use of nuclear weapons*, p. 235, para. 14.

²² *Advisory Opinion on the separation of the Chagos*, p. 114, para. 67; *Advisory Opinion on the construction of a wall*, pp. 156-157, para. 44; *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 416, para. 30; *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against UNESCO*, *Advisory Opinion*, I.C.J. Reports 1956, p. 86; *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, *Advisory Opinion*, I.C.J. Reports 1962, p. 155; *Advisory Opinion on South West Africa*, p. 27, para. 41; *Advisory Opinion on Western Sahara*, p. 21, para. 23.

account: the absence of necessary factual information; political inopportuneness; and the lack of consent.

17. A first reason that might lead the Court to refuse to accede to a request for an advisory opinion from the General Assembly is the absence of factual information needed for it to decide on a question of fact. To enable it to pronounce on the questions put to it, the Court has previously held that it must “be acquainted with, take into account and, if necessary, make findings as to the relevant factual issues”²³. The crucial point in this regard, according to the Court, is whether it has “sufficient information and evidence to enable it to arrive at a judicial conclusion upon any disputed questions of fact the determination of which is necessary for it to give an opinion in conditions compatible with its judicial character”²⁴. Replying to the questions posed by the General Assembly certainly entails a detailed examination of the facts. In this respect, Luxembourg has taken note of the very extensive dossier which the United Nations Secretariat has prepared for the Court, containing a selection of all the relevant documents likely to throw light upon the questions put to it. For Luxembourg, this demonstrates that the Court has sufficient information to enable it to give the opinion requested.

18. A second reason why the Court might not accede to the request is political inopportuneness. At the outset, it should be noted that the differing views expressed by States on the questions contained in the General Assembly’s request are not relevant in this regard. The Court’s opinion is given not to States, but to the organ which has requested it²⁵. And as the Court has observed, Article 10 of the Charter confers on the General Assembly a competence relating to “any questions or any matters” within the scope of the Charter²⁶. It is precisely for this reason that the motives of those States that initiate or vote in favour of a resolution requesting an advisory opinion are of no relevance when the Court exercises its discretionary power as to whether or not to reply to the question put to it. Hence the Court found in its Advisory Opinion on the threat or use of nuclear weapons that

“once the Assembly has asked, by adopting a resolution, for an advisory opinion on a legal question, the Court, in determining whether there are any compelling reasons for it to refuse to give such an opinion, will not have regard to the origins or to the political history of the request, or to the distribution of votes in respect of the adopted resolution”²⁷.

19. In its Advisory Opinion on the construction of a wall, the Court points out that “[it] cannot substitute its assessment of the usefulness of the opinion requested for that of the organ that seeks such opinion, namely the General Assembly”²⁸. It is for the organ requesting the opinion, in this case the General Assembly, to determine “whether it needs the opinion for the proper performance of its functions”²⁹. The Court has thus recognized that “[t]he General Assembly has the right to decide for

²³ *Advisory Opinion on South West Africa*, p. 27, para. 40.

²⁴ *Advisory Opinion on Western Sahara*, pp. 28-29, para. 46.

²⁵ *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion*, I.C.J. Reports 1950, p. 71.

²⁶ *Advisory Opinion on the construction of a wall*, p. 145, para. 17.

²⁷ *Advisory Opinion on the threat or use of nuclear weapons*, p. 237, para. 16.

²⁸ *Advisory Opinion on the construction of a wall*, p. 163, para. 62.

²⁹ *Advisory Opinion on the unilateral declaration of independence of Kosovo*, p. 417, para. 34; *Advisory Opinion on the separation of the Chagos*, p. 115, para. 76.

itself on the usefulness of an opinion in the light of its own needs”³⁰. Luxembourg fully endorses these findings of the Court.

20. Lastly, a third reason that might lead the Court to refuse to accede to a request for an advisory opinion concerns the lack of consent. On the basis of the principle of consent in general international law, both the Court and its predecessor, the Permanent Court of International Justice, have indeed considered that they cannot exercise their jurisdiction when that would involve ruling on the legal rights and obligations of an interested State that is not a party to the proceedings and has not given its consent to the jurisdiction of the Court³¹.

21. In its Advisory Opinion on the separation of the Chagos, the Court notes that, in certain circumstances, to render an advisory opinion would contravene “the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent”³². The Court has found in this regard, in its Advisory Opinion on Western Sahara, that

“the lack of consent of an interested State may render the giving of an advisory opinion incompatible with the Court’s judicial character. An instance of this would be when the circumstances disclose that to give a reply would have the effect of circumventing the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent. If such a situation should arise, the powers of the Court under the discretion given to it by Article 65, paragraph 1, of the Statute, would afford sufficient legal means to ensure respect for the fundamental principle of consent to jurisdiction.”³³

22. However, the situation in which the Court finds itself in respect of General Assembly resolution A/RES/77/247 is not the one contemplated in the two advisory opinions referred to above. In the first place, the questions contained in the request cannot be reduced to a dispute of purely bilateral dimensions, but concern the problem of the *erga omnes* (and *erga omnes partes*) effects of rights and obligations under international law, affecting the international community as a whole. Moreover, as the Court has noted, “[d]ifferences of views among States . . . have existed in practically every advisory proceeding”³⁴, without that having led the Court to decline to give an advisory opinion.

23. Furthermore, given the powers and responsibilities of the United Nations with regard to issues concerning the maintenance of international peace and security, the questions contained in the request for an advisory opinion are of direct interest to the United Nations and in particular the General Assembly. The responsibility of the United Nations in this respect is also reflected in the mandate and in its resolution on the partition plan for Palestine³⁵. In this context, the General Assembly has reaffirmed on several occasions in its resolutions that “the United Nations has a permanent responsibility towards the question of Palestine until the question is resolved in all its

³⁰ *Advisory Opinion on the threat or use of nuclear weapons*, p. 237, para. 16.

³¹ *Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5*, pp. 27-28.

³² *Advisory Opinion on the separation of the Chagos*, p. 117, para. 83.

³³ *Advisory Opinion on Western Sahara*, p. 25, para. 33.

³⁴ *Advisory Opinion on South West Africa*, p. 24, para. 34.

³⁵ General Assembly resolution 181 (II), A/RES/181(II) (29 Nov. 1947); see also Security Council resolution 242 (1967), S/RES/242(1967) (24 Nov. 1967), and Security Council resolution 338 (1973), S/RES/338(1973) (22 Oct. 1973).

aspects in a satisfactory manner in accordance with international legitimacy”³⁶. Luxembourg fully shares the view that the request concerns questions upon which it would be useful for the General Assembly to have an advisory opinion for the performance of its functions under the Charter. In addition, the questions are of particular interest for the United Nations and go far beyond a bilateral dimension; they concern the international community as a whole. In these circumstances, an advisory opinion of the Court can in no way have the effect of circumventing the principle of consent to judicial settlement.

24. Luxembourg thus considers that there are no compelling reasons to justify the Court declining to give an advisory opinion on the two questions submitted to it by the General Assembly. The questions posed are relevant and of some urgency, in view of the situation in the Occupied Palestinian Territory, including East Jerusalem. The Court’s reply will provide significant clarifications and assist in the due application of international law.

IV. CONCLUSION

25. In conclusion, and for the reasons set out above, Luxembourg considers that the Court has jurisdiction to accede to the request for an advisory opinion submitted by the General Assembly in its resolution A/RES/77/247 of 30 December 2022. Luxembourg likewise takes the view that the Court should give effect to the said request for an advisory opinion, in the absence of any compelling reasons for it to be declined.

26. Luxembourg reserves the right to furnish additional information, and to present further observations on the questions submitted to the Court for an advisory opinion in a possible second written statement to be filed by 25 October 2023, in accordance with the Order of the Court dated 3 February 2023 and with Article 66, paragraph 4, of the Statute.

Luxembourg, 20 July 2023

Respectfully,

(Signed) Alain GERMEAUX,

Agent of the Government.

³⁶ General Assembly resolution 77/22, Committee on the Exercise of the Inalienable Rights of the Palestinian People, A/RES/77/22 (30 Nov. 2022), last recital of the preamble.