

INTERNATIONAL COURT OF JUSTICE

REQUEST FOR ADVISORY OPINION

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

WRITTEN STATEMENT OF ITALY

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INTRODUCTION

By Resolution 77/247 adopted on 30 December 2022, the General Assembly decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following questions, considering 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?”

In its Order of 3 February 2023, the International Court of Justice 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” and fixed 25 July 2023 as the time-limit within which written statements on the questions may be presented to the Court, in accordance with Article 66, paragraph 2, of the Statute.

The following written statement is submitted by the Government of the Italian Republic by virtue of that Order.

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1. The Government of the Italian Republic would like to recall the longstanding support by the United Nations for the principle of negotiations as the only path to resolving the Israeli-

Palestinian conflict, on the basis of the “land for peace” principle first established in UN Security Council resolution 242 (1967). This principle has laid the foundation for agreements such as the Egypt-Israel Treaty of Peace of 1978, the Israel-Jordan Treaty of Peace of 1994 and the Declaration of Principles of 13 September 1993 in which Israelis and Palestinians committed themselves, *inter alia*, to negotiating between them the resolution of the conflict.

2. This principle has been upheld by all relevant UN Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973). This aspect is meaningful also because, in its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court itself recognized that the tragic situation in the Middle East “can be brought to an end only through implementation in good faith of all relevant Security Council resolutions”¹.

3. The Government of the Italian Republic follows with great concern recent developments, marked by a lack of progress, unilateral actions, further deterioration in trust between the parties and phases of increased violence. This state of things, however, only highlights the essentially political nature of the matter, which can only be solved through negotiations.

4. The Government of the Italian Republic recalls that Article 65, para. 1 of its Statute gives the Court the power to decline to render an opinion, as the Court itself has acknowledged as much in its *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania*: “Article 65 of the Statute is permissive. It gives the Court the power to examine whether the circumstances of the case are of such a character as should lead it to decline to answer the Request . . . the Court possesses a large amount of discretion in the matter.”²

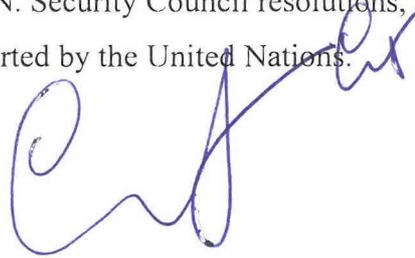
5. The Government of the Italian Republic considers that this is a pertinent point in the present case and respectfully encourages the Court to consider using such discretion, bearing in mind the essentially political nature of the matter and the established legal framework for the resolution of the conflict. In particular, Italy is cognizant of the risk that an advisory opinion by the Court might reduce the flexibility of the parties in dealing with present circumstances and long-term prospects, and therefore would not contribute to move the process closer to a mutually agreed solution.⁶ However, should the Court decide to render its opinion, Italy

¹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, I.C.J. Report 2004, pp. 200-01, para. 162.

² *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania*, Advisory opinion of 30 March 1950 (first phase) (I.C.J. Reports 1950).

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respectfully submits that the Court carefully consider how to exercise its functions in a manner consistent with the responsibilities and stated interests of the General Assembly and Security Council, so as to preserve the parties' ability to negotiate peace and a two-State solution consistent with the framework established in U.N. Security Council resolutions, adopted in the agreements of the parties, and continually supported by the United Nations.

A handwritten signature in blue ink, appearing to be 'G. Noveck', written over the end of the printed text.

Attorney at Law
G. Noveck