

# **International Court of Justice**

**Obligations of Israel in relation to the Presence and Activities of  
the United Nations, other International Organisations and Third  
States in and in relation to the Occupied Palestinian Territory**

**Request of the United Nations General Assembly  
for an Advisory Opinion**

**Statement of Ireland**

**28 February 2025**

## Introduction

1. On 19 December 2024 the United Nations General Assembly (*'the General Assembly'*) adopted resolution 79/232<sup>1</sup>, entitled *'Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States.'* At paragraph 10 of the resolution, the General Assembly decided, in accordance with Article 96 of the Charter of the United Nations (*'the Charter'*), to request the International Court of Justice (*'the Court'*) to render an advisory opinion on the following question:

*What are the obligations of Israel, as an occupying Power and as a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination?*

2. By letter dated 23 December 2024, the Registrar of the Court gave notice of the request for an advisory opinion to all States entitled to appear before the Court, pursuant to Article 66, paragraph 1, of the Statute of the Court (*'the Statute'*).
3. By its Order of 23 December 2024, the Court decided that the United Nations and its Member States, as well as the observer State of Palestine, were considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion, and fixed 28 February 2025 as the time-limit within which written statements on the question might be presented to the Court, in accordance with Article 66, paragraph 2, of the Statute. Ireland, accordingly, avails itself of this opportunity to submit the present written statement on the questions submitted by the General Assembly.

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<sup>1</sup> General Assembly resolution 79/232 of 19 December 2024.

4. In view of the urgency of these proceedings and the limited time available, the present written statement is limited to the obligations of Israel, as an occupying Power and as member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, in and in relation to the Occupied Palestinian Territory.

### **Exercise of the Jurisdiction of the Court**

5. Ireland submits that the Court has jurisdiction to give an advisory opinion in response to the question posed by the General Assembly, and that there are no compelling reasons why the Court should, in the exercise of its discretion, decline to give such its opinion.

#### ***A. Jurisdiction***

6. Article 65 of the Statute empowers the Court '*to give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter [...] to make such a request.*' Article 96, paragraph 1, of the Charter so authorises the General Assembly.<sup>2</sup> In Ireland's view the question posed by the General Assembly at paragraph 10 of resolution 79/232 is a legal question within the meaning of Article 96 of the Charter.
7. The question posed relates to the *legal* obligations of Israel, as an occupying Power and a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organisations, and third States, in and in relation to the Occupied Palestinian Territory. The question raises issues of international law which are therefore, by their very nature, susceptible of a reply based on law.
8. Israel's obligations in this regard fall to be determined in light of the applicable principles and rules of international law, including the Charter, international humanitarian law and relevant instruments regulating the privileges and immunities of international organisations

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<sup>2</sup> Article 96, paragraph 1 of the Charter provides: 'The General Assembly may request the International Court of Justice to give an advisory opinion on any legal question.'

and States. Ireland accordingly submits that the request for an advisory opinion relates to a legal question, and has been made in accordance with the relevant provisions of the Charter and the Statute, such that the Court has jurisdiction to give the requested opinion.

### ***B. Discretion***

9. The Court has consistently held that it enjoys a discretion under Article 65, paragraph 1, of its Statute to ‘*decline to give an advisory opinion even if the conditions of jurisdiction are met.*’<sup>3</sup>
10. However, given its function as the principal judicial organ of the United Nations under Article 92 of the Charter, the Court has consistently taken the view that its answer to a request for an advisory opinion ‘*represents its participation in the activities of the Organization, and, in principle, should not be refused.*’<sup>4</sup> As such, ‘*the consistent jurisprudence of the Court is that only ‘compelling reasons’ may lead the Court to refuse its opinion in response to a request falling within its jurisdiction.*’<sup>5</sup>
11. Ireland submits that there are no such compelling reasons that should lead the Court to decline to exercise its judicial function in the instant case. On the contrary, in Ireland’s view the authoritative clarification by the Court of the important legal issues raised in the present request for an advisory opinion would facilitate the restoration of the most prompt and effective means of providing basic services and humanitarian assistance to the civilian population of the Occupied Palestinian Territory.

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<sup>3</sup> cf. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 156, para. 44; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010 (II), pp. 415-416, para. 29; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, p.16, para. 30.

<sup>4</sup> cf. *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; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (I), p. 113, para. 65, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, p.16, para. 30.

<sup>5</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (I), p. 113, para. 65.

12. As regards the necessity of an advisory opinion in response to the question posed by the General Assembly, it will be recalled that in requesting an opinion in the instant case the General Assembly has expressed the view that the matters raised ‘*demand consideration by and guidance from the International Court of Justice, on a priority basis and with the utmost urgency, of certain additional questions to supplement the Court’s advisory opinion of 19 July 2024.*’<sup>6</sup> The Court has consistently held that it cannot substitute its own assessment of the need for an advisory opinion with that of the organ requesting it,<sup>7</sup> and that it is the right of the General Assembly to decide for itself the usefulness of an advisory opinion with reference to its own responsibilities and functions.<sup>8</sup>
13. In light of the foregoing, Ireland submits that the Court has the jurisdiction to provide an advisory opinion in the present case and should exercise its discretion to do so.

## **Obligations of Israel as an Occupying Power**

### ***A. Status of Israel as an occupying power in the Occupied Palestinian Territory***

14. In its Advisory Opinion in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (‘*Wall case*’) in 2004, the Court expressly held that Israel has the status of an occupying Power in respect of the Occupied Palestinian Territory.<sup>9</sup> In its 2024 Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (‘*Policies and Practices case*’) the Court re-affirmed Israel’s status as an occupying Power in the West Bank, including East Jerusalem.<sup>10</sup> In respect of the Gaza Strip, the Court concluded in the latter case that Israel retains obligations under the law of occupation commensurate with its effective control over this portion of the Occupied Palestinian Territory. In reaching this conclusion, the Court had regard to Israel’s ‘*control of the land, sea and air borders,*

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<sup>6</sup> UNGA Res 79/232 (2024), UN Doc A/79/232, 23<sup>rd</sup> preambular paragraph.

<sup>7</sup> Cf. *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996 (I), p. 237, para. 16; *Wall case*, p. 163, para. 62; *Policies and Practices case*, para. 37.

<sup>8</sup> *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996 (I), p. 237, para. 16; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, p.18, para. 37.

<sup>9</sup> *Wall case* p. 167, para. 78.

<sup>10</sup> *Policies and Practices case*, p. 29, para. 87.

*restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005.*<sup>11</sup>

15. Ireland recalls the Court's conclusion in the *Policies and Practices* case that Israel 'remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005', and 'even more so since 7 October 2023'<sup>12</sup>, the day of the heinous terror attack perpetrated against Israel by Hamas, which Ireland has condemned unequivocally. As the Court noted, 'Israel's obligations (under the law of occupation) have remained commensurate with the degree of its effective control over the Gaza Strip.'<sup>13</sup>

### ***B. Applicable Obligations***

16. Israel has been in occupation of the Palestinian Territory since 1967 and, accordingly, has been obliged to respect applicable international humanitarian law since that time. As the Court determined most recently in the *Policies and Practices* case, Israel's powers and duties in the Occupied Palestinian Territory are governed by the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (the '*Fourth Geneva Convention*') and by customary international law.<sup>14</sup> It noted that '*Pursuant to Article 154 of the Fourth Geneva Convention, that Convention is supplementary to the rules contained in Sections II and III of the* 1907 Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention (the '*Hague Regulations*') and that the Hague Regulations have become part of customary international law and are accordingly binding on Israel.'<sup>15</sup>

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<sup>11</sup> *Policies and Practices* case, p. 30, para. 94.

<sup>12</sup> *Policies and Practices* case, p. 34, para. 93.

<sup>13</sup> *Policies and Practices* case, p. 34, para. 94.

<sup>14</sup> *Policies and Practices* case, p. 31, para. 96.

<sup>15</sup> *Ibid.*

17. Ireland recalls the Court's clarification in the *Policies and Practices* case that it is the 'basic duty' of the occupying Power to administer the territory subject to its effective control for the benefit of the local population.<sup>16</sup> In that case the Court noted that, where the local authorities in the occupied territory have not resumed exercising governmental functions, the obligations of the occupying Power under the Fourth Geneva Convention remain in force. It also noted that '*there is no temporal limit on the application of the obligations of an occupying Power under the Hague Regulations.*'<sup>17</sup>

18. Ireland submits that the following provisions of the Fourth Geneva Convention, in particular, are relevant to the consideration of Israel's obligations as an occupying Power in these proceedings:

- Article 50, paragraph 1, which provides that '*the Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.*'
- Article 55, paragraph 1, which provides that '*to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.*'
- Article 56, paragraph 1, which provides that '*to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.*'
- Article 59, paragraph 1, which provides that '*if the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.*'

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<sup>16</sup> *Policies and Practices* case, p. 34, para. 107.

<sup>17</sup> *Ibid.*

- Article 60, which provides ‘*Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.*’

19. Ireland submits that the above provisions impose express obligations on an occupying Power to provide and/or ensure the provision of essential humanitarian services and supplies to the population of the occupied territory. In Ireland’s view, customary international humanitarian law obliges the occupying Power, where unwilling or unable to provide those essential services and supplies, to allow and facilitate their provision by relevant humanitarian relief agencies in a position to act.

20. In this regard, Ireland recalls the indispensable role played by United Nations agencies and programmes in the provision of essential humanitarian assistance to the civilian population of the Occupied Palestinian Territory for many decades, and in particular the vital task of the United Nations Relief and Works Agency for Palestine Refugees (‘UNRWA’), which was established by United Nations General Assembly Resolution 302 (IV) of 8 December 1949 to carry out direct relief and works programmes for Palestine refugees and has been performing this task continuously since 1 May 1950. The ‘*vital role*’ of UNRWA ‘*in providing life-saving humanitarian assistance to Palestinian refugees through essential education, health, relief and social services programmes and emergency assistance in the Occupied Palestinian Territory, Jordan, Lebanon and the Syrian Arab Republic*’ has been recognised by the Security Council, which described UNRWA as ‘*the backbone of all humanitarian response in Gaza, and affirmed that no organization can replace or substitute UNRWA’s capacity and mandate to serve Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance.*’<sup>18</sup>

21. The recognition of the vital role of UNRWA was shared by the General Assembly which, in its resolution ES-10/25, emphasised that ‘*no organization can replace or substitute the Agency’s capacity and mandate to serve Palestine refugees and civilians in urgent need of*

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<sup>18</sup> SC/15874, 30 October 2024 - Security Council Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA).



*life-saving humanitarian assistance.*<sup>19</sup> Ireland recalls that, under typical conditions, UNRWA's operations in the Occupied Palestinian Territory comprise the running of 400 schools, over 65 primary health clinics and 1 hospital in providing educational service to 350,000 children and 5 million health consultations per year. UNRWA also provides humanitarian relief throughout the Occupied Palestinian Territory.<sup>20</sup>

22. In view of the essential role of UNRWA in the Occupied Palestinian Territory, Ireland is gravely concerned by the enactment of two laws by the Knesset of Israel on 28 October 2024, namely the Law for the Cessation of UNRWA Activities (2024) and the Law for the Cessation of UNRWA Activities in the State of Israel (translations of which in the English language, provided by the Government of Israel, are set out in identical letters dated 9 December 2024 from the Secretary-General to the President of the General Assembly and the President of the Security Council), and by the subsequent notification by Israel on 3 November 2024 of the withdrawal of its request to UNRWA to continue providing assistance to Palestine refugees, set out in the *'Exchange of Letters constituting a provisional agreement concerning assistance to Palestine Refugees'* dated 14 June 1967.<sup>21</sup>
23. Having regard to the legal obligations set out above, the prevailing humanitarian situation throughout the Occupied Palestinian Territory and the vital, indispensable humanitarian assistance that it is widely acknowledged only UNRWA is capable of providing, Ireland is concerned that the legislation adopted by Israel constitutes a significant impediment to UNRWA's operations in the Occupied Palestinian Territory, including East Jerusalem, in apparent breach of its obligations.

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<sup>19</sup> UNGA Res ES-10/25.

<sup>20</sup> A/79/684-S/2024/892 Letter of the Secretary-General dated 9 December 2024.

<sup>21</sup> Cf. Letters of UNSG to Presidents of the Security Council and the General Assembly dated 27 January 2025.

## Obligations of Israel as a Member State of the United Nations

### *A. Obligation to give assistance to the United Nations*

24. Israel, as a Member of the United Nations, is required to fulfil in good faith the obligations assumed by it under and in accordance with the Charter,<sup>22</sup> and to give the United Nations every assistance in any action it takes in accordance with the Charter.<sup>23</sup>
25. Ireland recalls that the Court has previously stressed *‘the importance of the duty to render to the Organization ‘every assistance’ which is accepted by the Members in Article 2, paragraph 5, of the Charter. It must be noted that the effective working of the Organization – the accomplishment of its task, and the independence and effectiveness of the work of its agents – require that these undertakings should be strictly observed.’*<sup>24</sup>
26. In view of this, Ireland considers that it is incumbent upon Israel, as a Member of the United Nations, to assist and facilitate UNRWA, established as a subsidiary organ under Article 22 of the Charter,<sup>25</sup> in fulfilling the mandate given to it by the General Assembly in its resolution 302 (IV) of 18 December 1949,<sup>26</sup> as well as by the subsequent resolutions renewing UNRWA’s mandate. The most recent such resolution, which renewed UNRWA’s mandate to 30 June 2026, affirms *‘the necessity for the continuation of the work of the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the importance of its unimpeded operation and its provision of services, including emergency assistance, for the well-being, protection and human development of the Palestine refugees and for the stability of the region, pending the just resolution of the question of the Palestine refugees.’*<sup>27</sup>

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<sup>22</sup> Charter of the United Nations, Article 2, para. 2.

<sup>23</sup> Charter of the United Nations, Article 2, para. 5.

<sup>24</sup> *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, (1949) I.C.J. Reports 174, at 183.*

<sup>25</sup> See *note verbale* from the Office of Legal Affairs of the Secretariat of the United Nations to the Ministry of Foreign Affairs of Israel, dated 18 November 2024 (Dossier, Section II (F), document no. N303).

<sup>26</sup> UNGA Res 302 ((V) UN Doc A/RES/302 (IV).

<sup>27</sup> UNGA Res 79/88 (2024) UN Doc A/RES/79/88.

## ***B. Privileges and immunities of the United Nations***

27. In Ireland's view, Israel is under an obligation to afford UNRWA such privileges and immunities as are necessary for the performance of its functions and the fulfilment of the mandate conferred on it by the General Assembly.
28. Article 105 of the Charter of the United Nations provides that the '*Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes*' (paragraph 1), and that officials of the Organisation '*shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organisation*' (paragraph 2). Article 105, paragraph 3, further provides that the '*General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2, or may propose conventions to the Members of the United Nations for this purpose.*'
29. Pursuant to Article 105, paragraph 3, of the Charter the General Assembly adopted the Convention on the Privileges and Immunities of the United Nations (the '*General Convention*').<sup>28</sup> The General Convention sets out the privileges and immunities that are necessary for the fulfilment of the purposes of the United Nations, and confers immunity from legal process and inviolability on its property and assets '*wherever located and by whomsoever held.*'<sup>29</sup> The Court has previously held that the General Convention '*creates rights and duties between each of the signatories and the Organization.*'<sup>30</sup>
30. Israel acceded to the General Convention on 21 September 1949 (without reservation) and as such is obliged to perform the obligations assumed by it under that Convention in good faith. Israel may not invoke the provisions of its internal law to justify its failure to perform its obligations under the Convention.<sup>31</sup> Article 34 of the General Convention provides that '*[i]t is understood that, when an instrument of accession is deposited on behalf of any*

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<sup>28</sup> Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946 (United Nations, *Treaty Series*, vol., p. 15).

<sup>29</sup> Article II, Sections 2 and 3.

<sup>30</sup> *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, (1949)* I.C.J. Reports 174, at 179.

<sup>31</sup> Vienna Convention on the Law of Treaties (United Nations, *Treaty Series*, vol. 1155, p. 331) Articles 26 and 27.

*Member, the Member will be in a position under its own law to give effect to the terms of this convention.'*

31. As noted above, UNRWA has been established as a subsidiary organ of the General Assembly, in accordance with Article 22 of the Charter of the United Nations. In Ireland's view, UNRWA is therefore an integral part of the United Nations,<sup>32</sup> and accordingly enjoys the privileges and immunities afforded to the United Nations and its officials under Article 105 of the Charter of the United Nations and under the General Convention. In particular, UNRWA's property and assets enjoy immunity from every form of legal process, its premises are inviolable and immune from search, requisition, confiscation, expropriation or any other form of interference, and its officials are immune from legal process in respect of all acts performed by them in their official capacity, in accordance with the terms of those instruments.<sup>33</sup>

32. The Exchange of Letters constituting a Provisional Agreement between UNRWA and Israel concerning Assistance to Palestine Refugees of 14 June 1967 (the '*Provisional Agreement*')<sup>34</sup> expressly recognises that the General Convention, to which Israel is a party, will govern relations between the Government of Israel and UNRWA in respect of UNRWA's task in the West Bank and Gaza Strip areas, and that the facilities enumerated in the Provisional Agreement are essential if UNRWA is to operate efficiently. In Ireland's view, the General Convention continues to be applicable to relations between Israel and UNRWA, notwithstanding the purported termination by Israel of the Provisional Agreement.<sup>35</sup>

33. The General Assembly, in the resolution adopted at its Tenth Emergency Special Session on 11 December 2024, has emphasised that respect for the privileges and immunities of UNRWA and its officials is necessary to ensure that the Agency is able to fulfil its mandate

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<sup>32</sup> Summary of Internal Studies of Constitutional Questions relating to Agencies within the Framework of the United Nations, UN Doc A/C.1/758.

<sup>33</sup> General Convention, Article II, Sections 2 and 3, Article V, Section 18.

<sup>34</sup> Exchange of Letters constituting a Provisional Agreement between UNRWA and Israel concerning Assistance to Palestine Refugees (United Nations, *Treaty Series*, vol. 620, p. 183). It may also be recalled in this context that Resolution 302 (IV) of 8 December 1949 called upon the Governments concerned '*to accord to the United Nations Relief and Works Agency for Palestine Refugees in the Near East the privileges, immunities, exemptions and facilities which have been granted to the United Nations Relief for Palestine Refugees, together with all other privileges, immunities, exemptions and facilities necessary for the fulfilment of its functions*'. (para. 17).

<sup>35</sup> The Law for the Cessation of UNRWA Activities (2024), section 1.

in the Occupied Palestinian Territory, including East Jerusalem. In this resolution, the General Assembly, recalling *inter alia* Article 105 of the Charter of the United Nations and the General Convention, called upon Israel to ‘*respect the privileges and immunities of the Agency*’ (para. 2), deplored ‘*breaches of the inviolability of United Nations premises, the failure to accord the property and assets of the Organization immunity, the failure to protect United Nations personnel, premises and property and any disruption caused to Agency operations by such violations*’ (para. 10), and demanded that Israel ‘*respect the mandate of the Agency and its privileges and immunities and act forthwith to enable its operations to proceed without impediment or restriction in the Gaza Strip and the West Bank, including East Jerusalem, including, inter alia, to allow and facilitate full, rapid, safe and unhindered humanitarian assistance in all its forms into and throughout the entire Gaza Strip in accordance with the mandate of the Agency and to alleviate the humanitarian catastrophe*’ (para. 12).<sup>36</sup>

34. The General Assembly’s request for an advisory opinion recognises that the facilitation of UNRWA’s operations and respect for its privileges are ‘*closely related*’<sup>37</sup>, and calls upon Israel:

*‘to abide by the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in order to ensure the safety of the personnel of the United Nations, the protection of its institutions and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem, at all times, as well as not to impede or impair the work of third States in the Occupied Palestinian Territory[.]’*<sup>38</sup>

35. In Ireland’s view, certain provisions of the legislation adopted by the Knesset of Israel on 28 October 2024 may, if implemented, breach Israel’s obligations under Article 105 of the Charter and the General Convention.

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<sup>36</sup> UNGA Res ES-10/25 (2024) UN Doc A/RES/ES-10/25.

<sup>37</sup> UNGA Res 79/232 (2024) UN Doc A/RES/79/232, 21<sup>st</sup> preambular paragraph.

<sup>38</sup> UNGA Res 79/232 (2024) UN Doc A/RES/79/232, at para. 8.

36. First, the prohibition on Israeli government authorities from having contact with UNRWA or anyone acting on its behalf is incompatible with Israel's obligation to afford privileges, immunities and facilities to UNRWA and its officials.<sup>39</sup> In practical terms, the full enjoyment of the privileges and immunities set out under the General Convention is contingent upon contact between UNRWA and the relevant domestic authorities.
37. The Office of Legal Affairs of the Secretariat of the United Nations, in a *note verbale* to the Ministry of Foreign Affairs of Israel dated 8 January 2025, identifies a range of privileges, immunities and facilities that require contact as between UNRWA and the Government of Israel, including '*the granting of visas, exemption from taxes, exemption from import and export restrictions and entry and exit through checkpoints controlled by Israel, immunity from legal process, inviolability of its archives and its premises, and communication facilities.*'<sup>40</sup>
38. Second, Ireland notes that the legislation purports to preserve criminal proceedings against UNRWA employees.<sup>41</sup> Ireland considers that the preservation of such proceedings, insofar as they may relate to official acts of UNRWA officials and experts on mission, is incompatible with Israel's obligations under the General Convention.
39. Ireland recalls in this regard that UNRWA officials, and experts performing missions for UNRWA, continue to enjoy immunity from legal process in respect of all acts performed by them in their official capacity,<sup>42</sup> subject to the right and the duty of the Secretary-General to waive such immunity in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations.<sup>43</sup>

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<sup>39</sup> The Law for the Cessation of UNRWA Activities, section. 2.

<sup>40</sup> See the *Note Verbale* from the Office of Legal Affairs of the Secretariat of the United Nations to the Ministry of Foreign Affairs of Israel, dated 8 January 2025 (Dossier, Section II (F), document no. N306).

<sup>41</sup> Article V, Sections 17 and 18 of the General Convention. See also the Law for the Cessation of UNRWA Activities, para. 3.

<sup>42</sup> General Convention, Article V, Section 18(a), Article VI, Section 22(b).

<sup>43</sup> Article V, Section 20, Article VI, Section 23.

40. Third, as regards the purported territorial scope of the legislation, it is noted that the stated objective is to ‘*prevent any activity of UNRWA within the territory of the State of Israel.*’<sup>44</sup> Ireland recalls that the Court has concluded that Israel is not entitled to sovereignty over, or to exercise sovereign powers in any part of, the Occupied Palestinian Territory, including East Jerusalem, on account of its occupation thereof.<sup>45</sup>
41. Ireland has taken careful note of the correspondence involving the Commissioner-General of UNRWA, the Secretary-General, the Office of Legal Affairs of the Secretariat of the United Nations and the Government of Israel, concerning the privileges and immunities of UNRWA and its officials, as set out at section II (F) of the dossier furnished by the Secretary-General to the Court pursuant to Article 65, paragraph 2, of the Statute of the Court. In Ireland’s view this correspondence discloses a range of incidents, actions and omissions, apparently uncontested by Israel, which in and of themselves would appear to give rise to breaches of Israel’s obligations under Article 105 of the Charter and the relevant provisions of the General Convention.<sup>46</sup>
42. Ireland recalls in this regard that the inviolability of the premises of the United Nations is not expressed to be subject to any limitation or qualification under the General Convention. Ireland also notes in this context the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, which reiterates the view that the inviolability of the premises of the United Nations ‘*could not be set aside by any Member State on the grounds that, in the special circumstances of hostilities, it must be qualified or overridden by demands of military expediency.*’<sup>47</sup>

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<sup>44</sup> The Law for the Cessation of UNRWA Activities in the State of Israel, section 1.

<sup>45</sup> *Policies and Practices* case, p. 71, para. 254.

<sup>46</sup> Including, for example, the failure or refusal of the relevant Israeli authorities to disburse VAT refunds owed to UNRWA (Letter from the Secretary to the Prime Minister of Israel, dated 4 October 2024 (Section II (F), document no. N300), and the refusal by the relevant Israeli authorities to grant UNRWA exemption from import taxes in respect of computers and laptops intended for use in UNRWA offices, clinics, and schools (*Note verbale* from the Office of Legal Affairs of the Secretariat of the United Nations to the Ministry of Foreign Affairs of Israel, dated 18 November 2024 (Section II (F), document no. N303).

<sup>47</sup> Report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, as summarised in a letter from the Secretary-General addressed to the President of the Security Council, UN Doc A/63/855 - S/2009/250, 15 May 2009. See also Higgins et al, *Oppenheim’s International Law: United Nations* (Oxford University Press; 2017) para.16.33, note 116.

43. Ireland notes that that by letter dated 24 January 2025, the Permanent Representative of Israel to the United Nations purported to notify the Secretary-General that, in light of the legislation adopted by the Knesset and the purported termination of the Provisional Agreement, '*UNRWA is required to cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025.*'<sup>48</sup>
44. In Ireland's view, the requirement that UNRWA evacuate its premises in Jerusalem is incompatible with the inviolability enjoyed by the premises, property and assets of UNRWA, as well as the immunity of such premises from requisition, confiscation, expropriation or any form of interference, whether by executive, administrative, judicial or legislative action.<sup>49</sup>
45. Ireland considers that under the Provisional Agreement any proposed termination or modification of the terms of cooperation with UNRWA in the Occupied Palestinian Territory, including East Jerusalem, cannot be effected unilaterally by Israel, but rather is contingent upon prior consultation and negotiation with UNRWA, carried out in good faith, and that a reasonable period of notice must be given for the effecting of any change to the current arrangements.<sup>50</sup>

### *C. Self-determination*

46. In Ireland's view, Israel has an obligation as a Member of the United Nations not to adopt measures that impede the realisation by the Palestinian people of the right to self-determination. Ireland considers that this necessarily entails an obligation not to impede the provision of humanitarian and development assistance which is intended to support the Palestinian people in the realisation of that right.
47. It is clear from its resolution requesting the Court for an advisory opinion that the General Assembly considers there to be a close relationship between the provision of humanitarian and development assistance and the realisation of the right of the Palestinian people to self-

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<sup>48</sup> Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General, dated 24 January 2025 (Section II (F), document no. N307).

<sup>49</sup> General Convention, Article II, Section 3.

<sup>50</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980, p.73.*



determination.

48. For instance, the resolution adopted by the General Assembly calls upon Israel to ‘*uphold and comply with its obligations not to impede the Palestinian people from exercising its right to self-determination, including by rescinding any measures that obstruct the provision of basic services and humanitarian and development assistance to the Palestinian people*’, while the question posed by the General Assembly refers to the obligation of Israel to ‘*ensure and facilitate the unhindered provision [...] of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people’s right to self-determination.*’<sup>51</sup>

49. The Court has previously affirmed the existence of the right of the Palestinian people to self-determination,<sup>52</sup> determined the scope of this right, and examined the effects of Israel’s policies and practices on its exercise.<sup>53</sup>

50. Ireland recalls in this regard that the purposes of the United Nations include that of developing friendly relations among nations based on ‘*respect for the principle of equal rights and self-determination of peoples*’ (Article 1, paragraph 2). The Court has affirmed that the right of all peoples to self-determination is ‘*one of the essential principles of contemporary international law*’<sup>54</sup> and has recognised that the obligation to respect the right to self-determination is owed *erga omnes* (such that all States have a legal interest in protecting that right),<sup>55</sup> and that the right has a broad scope of application.<sup>56</sup>

51. In its advisory opinion in the *Policies and Practices* case, the Court concluded as follows:

*‘The Court considers that Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including*

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<sup>51</sup> UNGA Res 79/232 (2024), UN Doc A/RES/79/232, para.7 and para. 10.

<sup>52</sup> *Wall case*, p. 183, para. 118.

<sup>53</sup> *Policies and Practices case*, paras. 230 – 243.

<sup>54</sup> *East Timor (Portugal v Australia)*, Judgment, I.C.J. Reports 1995, p. 102, para. 29.

<sup>55</sup> *Wall case*, p. 199, para. 155; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 139, para. 180.

<sup>56</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 131, para. 144.

*its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory [...].*

*The dependence of the West Bank, East Jerusalem, and especially of the Gaza Strip, on Israel for the provision of basic goods and services impairs the enjoyment of fundamental human rights, in particular the right to self-determination [...].*

*The Court thus considers that Israel's policies and practices obstruct the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development [...].'<sup>57</sup>*

52. Ireland considers that the Court's reasoning applies, *mutatis mutandis*, to measures adopted by Israel which impede or obstruct the United Nations (including its subsidiary organs, funds, programmes, and specialised agencies) in the provision of humanitarian and development assistance to the Palestinian people, given the vital role that the provision of such assistance plays in the realisation of the right of the Palestinian people to self-determination.

## **Conclusion**

53. As the Secretary-General noted in his identical letters to the Presidents of the Security Council and the General Assembly dated 28 October 2024, '*UNRWA is the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory. There is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required, whether it be other United Nations entities, other international organizations, or any other entity. The cessation of or restrictions on its activities would leave Palestine refugees without the essential assistance that they require.*'

54. In these circumstances, Ireland submits that Israel's legal obligations – both as an occupying Power under international humanitarian and as a member of the United Nations and a party to the Charter and the General Convention – require it to cooperate with and

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<sup>57</sup> *Policies and Practices* case, paras. 237 – 242.

facilitate relevant United Nations agencies and programmes in the provision of essential humanitarian assistance and services to the Palestinian civilian population in Occupied Territory, in particular those of UNRWA, a subsidiary organ of the United Nations.

A handwritten signature in black ink, appearing to read 'Ann Derwin', with a horizontal dashed line underneath it.

Ann Derwin

Ambassador of Ireland to the Kingdom of the Netherlands