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INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
OBLIGATIONS OF ISRAEL IN RELATION TO THE PRESENCE AND ACTIVITIES
OF THE UNITED NATIONS, OTHER INTERNATIONAL ORGANIZATIONS
AND THIRD STATES IN AND IN RELATION TO
THE OCCUPIED PALESTINIAN TERRITORY
(REQUEST FOR ADVISORY OPINION)**

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

26 February 2025

[Translation by the Registry]

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I. INTRODUCTION

1. On 19 December 2024, the General Assembly of the United Nations adopted resolution A/RES/79/232 on the “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” (hereinafter the “Resolution”), 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 a priority basis and with the utmost urgency, 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. The Resolution was adopted by 137 votes to 12, with 22 abstentions. The Grand Duchy of Luxembourg (hereinafter “Luxembourg”) voted in favour of it.

3. In 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, are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion”. In view of the fact that the United Nations General Assembly requested that the Court’s advisory opinion be rendered “on a priority basis and with the utmost urgency”, the Court decided to take all necessary steps to accelerate the procedure, as contemplated by Article 103 of the Rules of Court. It fixed 28 February 2025 as the time-limit within which written statements on the above-mentioned question might be presented to the Court.

4. This written statement is submitted by Luxembourg in accordance with that decision.

II. PRELIMINARY CONSIDERATIONS

5. As stated in the Resolution, the present request for an advisory opinion follows on from the Court’s Advisory Opinion of 19 July 2024 on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (hereinafter the “Advisory Opinion of 19 July 2024”)¹. In that Opinion, the Court found in particular that the State of Israel’s continued presence in the Occupied Palestinian Territory (encompassing the West Bank, East Jerusalem and the Gaza Strip) is unlawful² and that Israel is under an obligation to bring to an end this unlawful presence as rapidly as possible³. As regards more specifically the question of the prolonged occupation of the Occupied Palestinian Territory, which has persisted since 1967, the

¹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024* (available at: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>).

² Advisory Opinion of 19 July 2024, para. 261.

³ *Ibid.*, para. 267.

Court observed that the State of Israel, by virtue of its status as an occupying Power, assumes a set of powers and duties with respect to the territory over which it exercises effective control⁴.

6. The opinion sought will make it possible to augment and develop the general analysis presented in the Advisory Opinion of 19 July 2024 and to clarify the specific obligations of Israel in respect of the presence and activities of the United Nations in and in relation to the Occupied Palestinian Territory.

7. Luxembourg participated in the proceedings that resulted in the Advisory Opinion of 19 July 2024, submitting a written statement and presenting oral observations during the public hearings. With this written statement, Luxembourg wishes to continue its commitment to contribute to the strengthening of the international order based on the rule of law, in which respect the Court plays an essential role.

8. Both the advisory opinion requested and the Resolution giving rise to the request come in the wake of legislation adopted by the Knesset on 28 October 2024 (hereinafter the “law of 28 October 2024”) prohibiting the activities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter “UNRWA”) in the territory of the State of Israel. More specifically, the law of 28 October 2024 precludes all contact between Israeli State authorities and UNRWA personnel and cancels the Comay-Michelmore Agreement of 1967. It also declares that criminal proceedings against UNRWA employees cannot be excluded. The legislation entered into force three months after its adoption, on 30 January 2025 (the abrogation of the Comay-Michelmore Agreement taking retroactive effect from 7 October 2024).

9. UNRWA was established by a United Nations General Assembly resolution dated 8 December 1949⁵, following the 1948 Arab-Israeli War and the exodus of hundreds of thousands of Palestinians to neighbouring countries. UNRWA fulfils its humanitarian mandate by providing protection and essential services to refugees of Palestine in the Gaza Strip, the West Bank (including East Jerusalem), Jordan, Lebanon and the Syrian Arab Republic. The very existence of UNRWA is a reflection of the unique situation of Palestine, whose refugees are alone in not depending on the United Nations Refugee Agency. UNRWA is financed almost entirely through voluntary contributions from United Nations Member States, but it also receives funds through the regular United Nations budget. As the United Nations Secretary-General observed in his letter of 28 October 2024 to the President of the United Nations General Assembly, UNRWA is the principal means by which essential assistance is supplied to Palestinian refugees in the Occupied Palestinian Territory⁶. UNRWA is the backbone of the humanitarian response in the Occupied Palestinian Territory. Its 75-year engagement with the population of Palestine renders it indispensable and irreplaceable.

10. In its Advisory Opinion of 19 July 2024, the Court expressly excluded from its analysis the conduct by Israel in the Gaza Strip in response to the attack carried out against it by Hamas and other armed groups on 7 October 2023⁷. Since the events of 7 October 2023, the humanitarian situation in the Gaza Strip, but also in the rest of the Occupied Palestinian Territory, has dramatically deteriorated. In view of the extremely critical situation in which the Palestinian civilian population

⁴ *Ibid.*, paras. 104-110.

⁵ United Nations General Assembly resolution 302 (IV), 8 Dec. 1949 (A/RES/302/(IV)).

⁶ Letter dated 28 Oct. 2024 sent to the President of the United Nations General Assembly by the Secretary-General (A/79/558).

⁷ Advisory Opinion of 19 July 2024, para. 81.

finds itself, there is an urgent need to clarify the legal framework governing the delivery of humanitarian and development assistance for the benefit of the Palestinian population.

11. The evolution of the situation over recent months demands that the Court examine on a priority basis and with the utmost urgency the additional questions raised by the United Nations General Assembly, in order to clarify Israel's obligations, as a United Nations Member State and as an occupying Power, in relation to the presence and activities of the United Nations in the Occupied Palestinian Territory, including those of UNRWA.

III. THE COURT'S JURISDICTION TO GIVE AN OPINION ON THE QUESTION POSED

12. In accordance with its jurisprudence, the Court must first consider whether it has jurisdiction to give the advisory opinion requested and, if so, whether there are compelling reasons to decline to answer the request⁸.

13. 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". The United Nations General Assembly is authorized by Article 96, paragraph 1, of the Charter to request an advisory opinion and has done so by the Resolution, duly adopted on 19 December 2024 by the necessary majority of the United Nations Member States present and voting. The United Nations General Assembly is competent to make the request, since the latter concerns questions arising within the scope of its activities.

14. The aforementioned Article 96, paragraph 1, authorizes the United Nations General Assembly to request an advisory opinion from the Court "on any legal question". The question that has been submitted to the Court for an opinion, which is written in clear and precise terms, concerns "the obligations of Israel, as an occupying Power". The Court is invited, in responding to it, to examine the situation taking into consideration the rules and principles of international law, as regards in particular the Charter, international humanitarian law, international human rights law, and privileges and immunities applicable under international law for international organizations and States.

15. It is clear, therefore, that the question submitted to the Court has been framed in terms of law and raises problems of international law. As the Court has previously had occasion to note, 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"⁹. Hence, "[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"¹⁰.

⁸ See in this regard Advisory Opinion of 19 July 2024, para. 22 and the jurisprudence cited.

⁹ *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 18, para. 15; *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010 (II)*, p. 415, para. 25.

¹⁰ *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010 (II)*, p. 415, para. 25.

16. Luxembourg considers that the Court has jurisdiction to accede to the United Nations General Assembly's request for an advisory opinion, since the question is of a legal character and the request has been submitted in accordance with the Charter.

17. The authority to give an advisory opinion vested in the Court by Article 65 of its Statute is of a discretionary nature¹¹. In accordance with its settled jurisprudence, only "compelling reasons" may lead the Court to refuse to give an advisory opinion falling within its jurisdiction¹². The questio[n] posed [is] relevant and urgent, in view of the situation in the Occupied Palestinian Territory. The Court's reply will provide significant clarifications and assist in the due application of international law. Luxembourg thus considers that there are no compelling reasons to justify the Court declining to give an advisory opinion on the questio[n] submitted to it by the United Nations General Assembly.

18. Since the present request for an advisory opinion is complementary to the Advisory Opinion of 19 July 2024, Luxembourg permits itself to refer to paragraphs 22 to 50 of that Opinion, in which the Court concluded that it had jurisdiction to give the opinion requested of it and that there were no compelling reasons for it to decline to do so. The reasoning set forth by the Court remains equally relevant in the context of the present opinion sought.

19. 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 United Nations General Assembly in the Resolution. Luxembourg likewise takes the view that the Court should give effect to the said request for an advisory opinion, in the absence of compelling reasons for it to be declined.

IV. LEGAL CONSIDERATIONS RELATING TO THE QUESTION PUT TO THE COURT

20. As an occupying Power and a Member of the United Nations, the obligations of Israel in relation to the presence and activities of the Organization in the Occupied Palestinian Territory derive from, but are not limited to, the law of international organizations and the Charter, international humanitarian law, international human rights law and customary international law. A few, non-exhaustive comments on Israel's legal obligations will be presented below.

¹¹ *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, p. 27, para. 41; *Western Sahara, Advisory Opinion*, I.C.J. Reports 1975, p. 21, para. 23; *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, I.C.J. Reports 1996 (I), pp. 234-235, para. 14; *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.

¹² *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo, Advisory Opinion*, I.C.J. Reports 2010 (II), 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; *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, p. 27, para. 41; *Western Sahara, Advisory Opinion*, I.C.J. Reports 1975, p. 21, para. 23; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), pp. 156-157, para. 44; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 114, para. 67.

A. Israel's obligations as a United Nations Member State

(a) General considerations

21. As a United Nations Member State, Israel enjoys a number of rights, but also assumes obligations. Resolution 273 of 11 May 1949¹³, by which the United Nations General Assembly admitted the State of Israel as a United Nations Member State, notes that Israel “unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations”.

22. Article 104 of the Charter provides that “[t]he Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes”. In its Advisory Opinion on *Reparation for Injuries Suffered in the Service of the United Nations*¹⁴, the Court recognized that the United Nations possesses international legal personality and the capacity to operate upon an international plane. The Members of the United Nations, which also include the State of Israel, are therefore under an obligation to recognize, on their territory and in their domestic legal order, the capacity and international legal personality of the United Nations and its bodies.

23. The privileges and immunities necessary for the work of the United Nations and its officials in the territory of each of its Member States are protected by the Charter. Article 105, paragraph 1, of that instrument provides in this regard that “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes”. The privileges and immunities enjoyed by the United Nations are defined in greater detail in the Convention on the Privileges and Immunities of the United Nations, adopted by the United Nations General Assembly in its resolution 22 A (I) of 13 February 1946 (hereinafter the “General Convention”). Section 3 of the General Convention provides that “[t]he premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.” The inviolability of premises is an essential part of the broader immunity of the Organization provided for in Article 105 of the Charter. This inviolability is absolute — it cannot be set aside on the ground that, given the particular circumstances of the hostilities, the inviolability of the premises and property of the United Nations must be qualified or overridden by the demands of military expediency¹⁵. The Charter and the General Convention permit no reservations in this regard.

24. Under the terms of Section 35 of the General Convention, the latter

“shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised convention”.

¹³ United Nations General Assembly resolution 273 (III), 11 May 1949 (A/RES/273/(III)).

¹⁴ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 179.

¹⁵ *United Nations Juridical Yearbook 2003*, p. 522, para. 11. See also R. Higgins et al., *Oppenheim's International Law: United Nations*, p. 574.

Member States cannot therefore denounce this convention while they are Members of the United Nations.

25. Israel acceded to the General Convention on 21 September 1949. As a State party to that convention and a Member of the United Nations, Israel is thus bound to respect the obligations relating to privileges and immunities deriving therefrom.

26. As stated above, UNRWA was established by United Nations General Assembly resolution of 8 December 1949 in order to respond to the large-scale displacement of Palestinian refugees following the armed conflict that had begun in 1948. The Agency is, in accordance with Article 7, paragraph 2, of the Charter, a subsidiary organ of the United Nations General Assembly that is accountable to the United Nations Secretary-General. In this regard, UNRWA is an integral part of the United Nations system. As a subsidiary organ of the United Nations, UNRWA enjoys the same privileges and immunities as the Organization in all its Member States, including Israel.

(b) The issues with the law of 28 October 2024 prohibiting the activities of UNRWA

27. The purpose of the law of 28 October 2024 is to put a stop to all UNRWA activity within the territory of Israel. The text provides more specifically that UNRWA cannot operate any representative office, provide any services, or carry out any activities, directly or indirectly, within the “sovereign territory of the State of Israel”. Under Article 2, paragraph 5 of the Charter, “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”. It follows from this that Israel is obliged to offer its assistance to UNRWA as a subsidiary organ of the United Nations and that it cannot prohibit the activities of that Agency.

28. In the Comay-Michelmore exchange of letters, concluded in 1967 after the end of the Six-Day War in the Middle East, Israel agreed to facilitate the task of UNRWA to the best of its ability and to provide general support to the activities of the Agency, subject to regulations or arrangements which may be necessitated by considerations of military security. In the exchange of letters, Israel also recognized that the General Convention, to which Israel is a party, governs the relations between the Israeli Government and UNRWA in all that concerns UNRWA’s functions. It is further stipulated that this provisional agreement will remain in force until replaced or cancelled.

29. The law of 28 October 2024 provides for the termination of the Comay-Michelmore exchange of letters and the revocation of privileges and immunities accorded to UNRWA. It should be noted that the Comay-Michelmore Agreement cannot constitute the legal basis for the presence in Israeli territory of UNRWA or the United Nations, since this presence predates the conclusion of the provisional agreement.

30. Under the law of 28 October 2024, all contact between Israeli State employees and UNRWA personnel, or conducted through an intermediary, is prohibited. This stipulation makes it impossible for UNRWA to operate, since the Agency cannot *de facto* perform its functions without entering into contact with the Israeli authorities, in particular for the issuance of visas for its staff.

31. This measure runs counter to the obligation of assistance that Israel owes to the United Nations and its bodies under the Charter.

32. The law of 28 October 2024 also provides that criminal proceedings against UNRWA personnel cannot be excluded. While the scope of this provision is not entirely clear, it is important to note that any criminal proceedings initiated by Israel against UNRWA employees would be incompatible with the General Convention, which grants United Nations officials immunity from legal process in respect of acts performed by them in their official capacity¹⁶. In accordance with Section 20 of the General Convention, the immunity of United Nations officials can be waived by decision of the United Nations. If Israel wishes to waive this immunity in particular cases, it should submit a request to this effect to the United Nations and give the reasons therefor.

33. It is clear from the above that Israel's demands regarding the cessation of UNRWA's activities, the evacuation of its premises and the loss of the immunities and inviolability enjoyed by the Agency and its employees are in breach of Israel's legal obligations under the Charter and the General Convention. The United Nations and its bodies, including UNRWA, must be able to continue to benefit from the privileges and immunities necessary for the fulfilment of their missions.

34. Consequently, Luxembourg considers that, for the reasons set out above, the law of 28 October 2024 is incompatible with Israel's obligations under international law. The implementation of the law of 28 October 2024 would effectively prevent UNRWA from continuing its essential activities in the Occupied Palestinian Territory, thereby jeopardizing the unique and irreplaceable mandate conferred on the Agency.

B. Israel's obligations as an occupying Power in the Occupied Palestinian Territory

35. As the Court has recognized on a number of occasions¹⁷, the State of Israel is to be considered as an occupying Power in the Occupied Palestinian Territory, which has important implications under international law.

36. Israel has legal obligations by virtue of its status as an occupying Power, irrespective of the question of the lawfulness of that situation. In this regard, the Court has emphasized that

“the obligations flowing from Israel's internationally wrongful acts do not release it from its continuing duty to perform the international obligations which its conduct is in breach of. Specifically, Israel remains bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law”¹⁸.

¹⁶ Section 18 of the General Convention.

¹⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 167, para. 78; Advisory Opinion of 19 July 2024, para. 86.

¹⁸ Advisory Opinion of 19 July 2024, para. 272 and the jurisprudence cited.

37. As an occupying Power in the Occupied Palestinian Territory, Israel has a duty to respect the rules of international humanitarian law. The powers and duties of Israel in the Occupied Palestinian Territory are governed by the Hague Convention (IV) of 18 October 1907 respecting the Laws and Customs of War on Land (hereinafter the “Hague Regulations”)¹⁹, the Geneva Convention (IV) of 12 August 1949 relative to the Protection of Civilian Persons in Time of War (hereinafter the “Fourth Geneva Convention”) and customary international law.

38. Article 43 of the Hague Regulations provides that “[t]he authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country”. It can be concluded from this that Israel is obliged to support the Palestinian population under occupation. The Court reaffirmed this in its Advisory Opinion of 19 July 2024, finding that Israel has a duty “to administer the territory for the benefit of the local population”²⁰.

39. As regards more specifically the obligation to allow the free passage of humanitarian relief, Article 23 of the Fourth Geneva Convention sets forth the general obligation to allow the free passage of all consignments of medical and hospital stores, essential supplies, food and other items intended for civilians, particularly children under 15, expectant mothers and maternity cases. This general obligation to grant free passage to relief consignments is subject to the condition that the party in question is satisfied that there are no serious reasons for fearing that the consignments may be diverted from their destination, or that the control may not be effective, or that a definite advantage may accrue to the military efforts or economy of the enemy. Article 23 further provides that the party that permits the free passage of relief consignments may prescribe the technical arrangements for their free passage and their utilization.

40. In the context of an occupation, the obligation to allow the free passage of relief consignments and the obligation to ensure the provision of food and medical supplies extends even further. Article 55 of the Fourth Geneva Convention provides that “[t]o 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”.

41. Israel, as an occupying Power, is therefore subject to this reinforced obligation to ensure the provision of relief supplies to the population. As the Court observed in paragraph 124 of its Advisory Opinion of 19 July 2024, “the occupying Power has the continuing duty to ensure that the local population has an adequate supply of foodstuffs, including water”.

42. Primary responsibility for the provision of humanitarian assistance lies with the party in whose power the civilians and other protected persons are found. However, if their essential needs cannot be met in this manner, the party in control, its enemy and third States must allow external actors to provide humanitarian assistance, subject to certain conditions. Under the terms of the first paragraph of Article 59 of the Fourth Geneva Convention, “[i]f 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”. The obligation to agree to the relief schemes of third parties is unconditional. An occupied territory being

¹⁹ As the Court observed in paragraph 96 of its Advisory Opinion of 19 July 2024, the Hague Regulations have become part of customary law and are thus binding on Israel.

²⁰ Advisory Opinion of 19 July 2024, para. 105.

inadequately supplied is sufficient to require the occupying Power to agree to relief being dispatched for the benefit of the population. These collective relief schemes may be undertaken either by States or by impartial humanitarian organizations. The third paragraph of the aforementioned Article 59 further obliges all contracting States, including Israel, to permit the free passage of these consignments and, additionally, to guarantee their protection. It is therefore prohibited to block or severely restrict humanitarian assistance.

43. The occupying Power can nevertheless exercise its right to inspect and control relief consignments and to supervise their distribution. The technical arrangements prescribed must not, however, violate the obligation to ensure the swift and unimpeded passage of relief, as the Court has affirmed in respect of the situation in Gaza²¹.

44. Israel must permit the free passage of all relief supplies and guarantee their protection, provided that it is reasonably satisfied that these consignments will be used to meet the needs of the population. Moreover, under Article 60 of the Fourth Geneva Convention, Israel cannot divert these supplies from their intended destination or recipient, nor confiscate them or use them for purposes other than those for which they are intended. Israel is allowed to impose certain restrictions or measures of control on humanitarian actors, notably for urgent or imperative reasons of security, or in the interests of the population of the occupied territory. However, these restrictions or measures of control must not be arbitrary.

45. Since UNRWA is the primary supplier of humanitarian assistance to the Palestinian population, Israel, as an occupying Power, is violating its obligations under international humanitarian law by impeding the Agency's activities, unless it ensures an alternative source of supplies. In view of the particularly difficult situation, it is, however, highly unlikely that a viable alternative could be put in place in the short term to guarantee the continuous delivery of humanitarian support.

46. The prohibition of activities imposed on UNRWA by the law of 28 October 2024 therefore constitutes a violation of the obligation to facilitate humanitarian access to the civilian population.

V. CONCLUSION

47. Under the applicable rules of international law, Israel is under an obligation not to impede or deny the presence of the United Nations and its bodies, including UNRWA, in particular in relation to activities to facilitate humanitarian assistance. As a Member of the United Nations, Israel must permit, facilitate and protect the presence and activities of the United Nations and its bodies, including by respecting applicable immunities.

48. As an occupying Power, Israel has a duty under international humanitarian law to ensure the protection and well-being of the Palestinian population and to ensure public order and safety in the Occupied Palestinian Territory. This means guaranteeing access to essential services and facilitating humanitarian access for civilians in need, in particular by allowing the free passage of relief consignments and ensuring their protection.

²¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of 26 January 2024*, para. 80 (available at: <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>).

49. Since UNRWA is the primary supplier of humanitarian assistance to the Palestinian population, Israel, as an occupying Power, is violating its obligations under international humanitarian law by impeding the activities of the Agency.

Luxembourg, 26 February 2025.

(Signed) Tobias SCHELL,
Agent.
