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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Public International Law
Subject:	Summary of the EU positions - ICJ Advisory Opinion on the 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

Delegations will find enclosed a Working document, prepared jointly by the Commission services and the EEAS, summarizing EU positions which may be relevant for submissions from EU Member States to the ICJ relating to the request for Advisory Opinion on the 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.

**Relevant Union positions for submissions from EU Member States
to the International Court of Justice
relating to 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, in and in relation to the Occupied Palestinian Territory**

A. Union positions International Humanitarian Law

- European Council conclusions, 26 and 27 October 2023

*“15. [...] The European Council strongly emphasises Israel’s right to defend itself **in line with international law and international humanitarian law**. It reiterates its call on Hamas to immediately release all hostages without any precondition. **The European Council reiterates the importance of ensuring the protection of all civilians at all times in line with international humanitarian law. It deplores all loss of civilian life.***

*16. **The European Council expresses its gravest concern for the deteriorating humanitarian situation in Gaza and calls for continued, rapid, safe and unhindered humanitarian access and aid to reach those in need through all necessary measures including humanitarian corridors and pauses for humanitarian needs. The European Union will work closely with partners in the region to protect civilians, provide assistance and facilitate access to food, water, medical care, fuel and shelter, ensuring that such assistance is not abused by terrorist organisations.***”.

- Statement delivered by the EU and its Member States at the UNHCR 89th Standing Committee, 13-15 March 2024

*“The current **escalating violence in the Middle East**, is having dramatic effects on **Palestine¹ refugees**, who continue to depend on humanitarian support outside UNHCR’s mandate via UNRWA, not only in Occupied Palestinian Territory but also in Lebanon, Jordan and Syria. We appreciate UNHCR’s role in addressing tremendous humanitarian needs in the region, including through support to authorities and local partners, in complementarity with UNRWA under their respective mandates in this particularly critical moment. We welcome in this regard the Secretary-General’s decision to appoint an independent review group to assess UNRWA’s internal mechanisms and procedures.*

*We call for the respect of human rights and International Humanitarian Law, and note that there must be accountability for violations of international law. We reiterate the importance of ensuring the protection of all civilians at all times, including UN personnel, humanitarian, and health care personnel, as well as the protection of civilian infrastructure, including medical facilities, schools, and UN premises, in line with International Humanitarian Law. We reiterate our condemnation of the terrorist attacks of Hamas on October 7th and we call for the unconditional and immediate release of hostages. We take note of the binding provisional measures order rendered by the International Court of Justice on 26 January, and urge all sides to respect international law. **We call for the facilitation of the work of UN agencies, including through continued, rapid, safe and unhindered***

*humanitarian access, in order for aid to reach those in need through all necessary means. We welcome in this respect the activation of a maritime corridor to deliver humanitarian assistance to Gaza from Cyprus. We note the High Commissioner's call on all parties to implement a ceasefire on humanitarian grounds. **We are very concerned about the humanitarian consequences of a possible ground operation in Rafah where well over a million Palestinians are currently sheltering from the fighting. Finally, we are deeply concerned by the imminent famine among displaced Palestinians, especially those in northern Gaza due to the limited humanitarian access.***"

- European Council conclusions, 27 June 2024

*"16. The European Council reiterates its strongest condemnation of the brutal terrorist attacks conducted by Hamas and other terrorist groups against Israel on 7 October 2023. It expresses its full solidarity and support to Israel and its people and reaffirms its full commitment to its security and to regional stability. **In exercising its right to defend itself, Israel must fully comply with its obligations under international law, including international humanitarian law, in all circumstances. The European Council stresses the importance of respecting and implementing the orders of the International Court of Justice (ICJ), which are legally binding.***

*19. The European Council deplores all loss of civilian life. It notes with utmost concern **the unacceptable number of civilian casualties, especially children, as well as the catastrophic levels of hunger and imminent risk of famine caused by the insufficient entry of aid into Gaza. It calls on all parties to take every feasible step to protect civilian lives.***"

*"20. The European Council condemns the recent strikes damaging the premises of the International Committee of the Red Cross (ICRC) in Gaza. **It calls on all parties to take all feasible precautions to avoid harm to civilians, humanitarian workers and facilities, as well as to grant the ICRC access to places of detention, in line with their obligations under international humanitarian law.***"

- European Council conclusions, 17 October 2024

*"16. It [the European Council] calls on all parties **to exercise the utmost restraint, put an end to all hostilities immediately and fully abide by international law, including international humanitarian law.***

*18. It [the European Council] reiterates Israel's right to defend itself and the European Union's commitment to Israel's security and to regional stability. **International humanitarian law must be respected by all parties and the dangerous cycle of attacks and retaliations must end.***

*22. The European Council reiterates its call for an immediate ceasefire in Gaza, the unconditional release of all hostages, **the urgent improvement of access and sustained distribution of humanitarian assistance at scale throughout Gaza, and an enduring end to hostilities, in line with UN Security Council Resolution 2735 [...]** The European Council deplores **the unacceptable number of civilian casualties, especially women and children, in Gaza and the West Bank, as well as the catastrophic levels of hunger and imminent risk of famine caused by the insufficient entry of aid into Gaza. It also recalls the need to fully implement the International Court of Justice orders.***

28. The European Council remains committed to ending impunity and ensuring accountability for violations of international law and international humanitarian law, throughout the world, and recalls the importance of supporting and implementing decisions of international courts."

- European Council conclusions, 19 December 2024

*“13. The European Council reiterates its call for an immediate ceasefire in Gaza, **the unconditional release of all hostages, the urgent improvement of access and sustained distribution of humanitarian assistance at scale throughout Gaza, and an enduring end to hostilities**, in line with UN Security Council Resolution 2735.”*

B. Union positions on UNRWA

- European Council conclusions, 21 and 22 March 2024

*“20. The European Council discussed the latest developments in the Middle East. It is appalled by the unprecedented loss of civilian lives and the critical humanitarian situation. The European Council calls for an immediate humanitarian pause leading to a sustainable ceasefire, the unconditional release of all hostages **and the provision of humanitarian assistance**.*

22. The European Council is deeply concerned about the catastrophic humanitarian situation in Gaza and its disproportionate effect on civilians, particularly children, as well as the imminent risk of famine caused by the insufficient entry of aid into Gaza. Full, rapid, safe and unhindered humanitarian access into and throughout the Gaza Strip via all routes is essential to provide the civilian population with life-saving assistance and basic services at scale. The European Council welcomes the Amalthea Initiative opening a maritime route for emergency assistance from Cyprus to Gaza, which supplements land routes that remain the main way to deliver the volumes needed. Additional land routes and crossings are needed.

23. Immediate measures should be taken to prevent any further population displacement and provide safe shelter to the population to ensure that civilians are protected at all times. The European Council urges the Israeli government not to undertake a ground operation in Rafah, which would worsen the already catastrophic humanitarian situation and prevent the urgently needed provision of basic services and humanitarian assistance. Over a million Palestinians are currently seeking safety from the fighting and access to humanitarian assistance there.

24. All parties must respect international law, including international humanitarian law and international human rights law. The European Council stresses the importance of respecting and implementing the 26 January 2024 order of the International Court of Justice, which is legally binding. Violations of international humanitarian law need to be thoroughly and independently investigated and accountability ensured. The European Council takes note of the reports by UN Special Representative Pramila Patten with grave concern and is appalled by the sexual violence during the 7 October attacks. The European Union supports independent investigations into all allegations of sexual violence, noting also the reports by UN Special Rapporteur Reem Alsalem.”

25. The European Council stresses that the services UNRWA provides in Gaza and across the region are essential. The European Council notes the recent EU measures and the financial support. It welcomes the swift launch by the UN of an internal investigation and external review following the serious allegations against 12 UNRWA staff about their alleged participation in the 7 October terrorist attacks. It looks forward to the results of the investigation and further decisive action by the UN to ensure accountability and strengthen control and oversight.”

- European Council conclusions, 27 June 2024

“19. [...] The European Council reaffirms the urgency of full, rapid, safe and unhindered access to humanitarian aid at scale for Palestinians in need and of allowing and facilitating humanitarian workers and international organisations to operate effectively inside Gaza. In this context, it stresses that the services UNRWA provides in Gaza and across the region are essential and condemns any attempts to label a UN agency as a terrorist organisation. The European Council welcomes the action plan presented by UNRWA. Its implementation will be closely monitored. The European Council welcomes the sustained efforts by Jordan and Egypt to de-escalate the crisis, including the humanitarian conference held in Jordan on 11 June 2024.”

- European Council conclusions, 17 October 2024

“25. [...] The European Council stresses the essential role of the UN and its agencies, notably UNRWA which provides crucial support to the civilian population, both in Gaza and the wider region. Continued implementation of the UNRWA Action Plan is key. The European Council condemns any attempt to abrogate the 1967 agreement between Israel and UNRWA or to otherwise attempt to obstruct its capacity to operate its mandate.”

- Statement by the High Representative on behalf of the EU, 31 October 2024

“The EU condemns any attempt to abrogate the 1967 agreement between Israel and UNRWA or to otherwise attempt to obstruct its capacity to operate its mandate.

[...]

It is essential that UNRWA can continue carrying out its crucial work in line with its mandate adopted by the UN General Assembly in 1949 and renewed since.

UNRWA provides essential services to millions of people in Gaza, the West Bank, including East Jerusalem, and across the region, including Lebanon, Syria and Jordan. The EU reiterates UNRWA’s crucial role in the humanitarian response to the Palestine refugees in the region, delivering life-saving support to a population facing critical and immense needs. UNRWA also plays a fundamental role in providing education and health services.

The EU is a firm supporter of the United Nations and the multilateral and rules-based international order of which UNRWA is a part. UN agencies uphold and implement both the letter and the spirit of the UN Charter, and play a crucial role in maintaining global security.

The EU is committed to continuing its support to the Agency, and closely monitors and evaluates the implementation of the recommendations of the Independent Review Group report following the allegations against some UNRWA staff and looks forward to further decisive action by the UN to ensure neutrality, accountability and strengthen control and oversight in order to prevent further cases.

As long as there is no sustainable solution to the conflict, the mandate of UNRWA will remain vital.”

- European Council conclusions, 19 December 2024

*“12. The European Council expresses its **deep concern over the consequences of the Israeli legislation adopted on 28 October 2024 on UNRWA’s capacity to operate its mandate**. The European Council stresses the essential role of UNRWA, which provides crucial support to the civilian population in both Gaza and the wider region. Continued implementation of the UNRWA Action Plan is key.”*

- Statement by the High Representative on behalf of the EU, 18 January 2025

*“We call for **full and unimpeded access for humanitarian aid to the Gaza strip and that aid can be effectively distributed to those in need, including by UN agencies and notably UNRWA**. Displaced Gazans should be ensured a safe and dignified return to their homes.*

The EU is committed to a just, comprehensive and lasting peace based on the two-state solution, with Israel and Palestine living side by side in peace and security. We will contribute to this objective through support to the Palestinian Authority to help it address its most pressing needs and support the reform agenda, and engagement with Israel and international partners in order to revive the political process.”

- Statement by the High Representative Kaja Kallas on the entry into force of the UNRWA legislation, 2 February 2025

„The European Union reiterates its concern at the far-reaching consequences of the Israeli legislation on UNRWA for its operations in the West Bank, including East Jerusalem, and in Gaza. The EU condemns any attempt to abrogate the 1967 agreement between Israel and UNRWA or to otherwise attempt to obstruct UNRWA’s capacity to operate its mandate.

The EU stresses the role of the UN and its agencies, notably UNRWA, which provides crucial support to the civilian population in Gaza, the West Bank, including East Jerusalem, and across the region, including Lebanon, Syria and Jordan. The essential service delivery to Palestine refugees is even more relevant now when there is a need for swift implementation of the ceasefire and hostage release agreement.

The EU is a firm supporter of the United Nations and the multilateral and rules-based international order of which UNRWA is a part. The EU is committed to continuing its support to the Agency to allow it to fulfil its mandate. The EU expects full implementation of the recommendations of the Independent Review Group report following the allegations against some UNRWA staff, and condemns the reported use by Hamas of UN facilities belonging to UNRWA as revealed by Israeli hostages. We look forward to further decisive action by the UN to ensure neutrality, accountability and strengthen control and oversight in order to prevent further cases.”
