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***To the attn. of:***

**Mr Josep Borell Fontelles**

EU High Representative for Foreign Affairs and Security Policy / Vice-President European External Action Service (EEAS)

**Foreign Affairs Ministers of the European Union (EU) member states**

19 January 2024

Dear High Representative,  
Dear Ministers of Foreign Affairs,

## **AMNESTY INTERNATIONAL LETTER AHEAD OF UPCOMING FOREIGN AFFAIRS COUNCIL ON SITUATION IN THE MIDDLE EAST**

We are writing to you ahead of the Foreign Affairs Council meeting on 22 January, which will discuss the concerning situation in the Middle East. Amnesty International is sharing the organization's analysis and recommendations for addressing the widespread human rights violations in the context of conflicts in the region.

Amnesty International welcomes the initial proceedings by the **International Court of Justice (ICJ), in response to South Africa's case against Israel for alleged breaches of the Genocide Convention**, as an important step that could help to protect Palestinian civilians, end the humanitarian catastrophe in the occupied Gaza Strip and alleviate mass human suffering.<sup>1</sup> Amnesty International concurs that **there are worrying signs of genocide in the occupied Gaza Strip** due to:

- The staggering scale of death and destruction with 24,000+ Palestinians killed during the course of Israel's relentless attacks on the occupied Gaza Strip;
- The deliberate depriving of adequate food, water, medical care and humanitarian assistance to the civilian population through an almost total siege by Israel, putting the survival of those within Gaza at risk;
- A spike in dehumanizing and racist rhetoric against Palestinians by multiple Israeli government and military officials;
- A long history of discrimination and oppression of Palestinians, including Israel's system of apartheid against Palestinians.<sup>2</sup>

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<sup>1</sup> Amnesty International, ICJ hearings over Israel's alleged breaches of the Genocide Convention a vital step to help protect Palestinian civilians, 10 January 2024, <https://www.amnesty.org/en/latest/news/2024/01/icj-hearings-over-israels-alleged-breaches-of-the-genocide-convention-a-vital-step-to-help-protect-palestinian-civilians/>

<sup>2</sup> Amnesty International, Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity, 1 February 2022, <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>

The organization views these proceedings, including the potential provisional measures to be taken by the ICJ, as an important step for protecting the lives of Palestinians, their rights, and international justice. This is an opportunity for EU member states to engage with, and show their commitment to, international law and institutions. States should recognize that the present ICJ proceedings are above all concerned with avoiding the risk of genocide and other risks to human rights. The duty to prevent genocide falls on all states, and is a matter of concern to the international community as a whole. Given the EU's commitment to addressing the most serious crimes and protecting the international law and justice mechanisms, we are concerned by statements shared by some member states which have – rather than formally intervening in the ICJ's proceedings and presenting their legal arguments – publicly dismissed the merits of the ICJ's case. Given the gravity of the present situation in the Gaza strip, and before the ICJ has issued a decision on South Africa's application for an order for provisional measures, such public assertions appear premature and risk undermining the appearance of the Court's independent mandate. The international obligation to prevent genocide must not be applied selectively, nor should it be subject to states' apparent double-standards in its application. All states, including EU states have an international legal obligation to act to prevent genocide, whether or not they are party to the Genocide Convention. The scale of devastation and destruction in Gaza and the humanitarian catastrophe risking the survival of Palestinians must be of concern to all European Union states and the world community.

We are horrified by the magnitude of the man-made human rights and humanitarian crisis in **Gaza**. Israeli indiscriminate bombardment has killed at least 24,448 Palestinians and wounded 61,504 others (over 3.7% of Gaza), around 70% of the fatalities are women and children, according to the Palestinian Ministry of Health. Further, Israeli authorities continue to subject the residents of Gaza to collective punishment imposed through the illegal blockade of Gaza. According to UNRWA, 1.9 million people, or nearly 85 per cent of the total population of Gaza are estimated to be internally displaced. Israeli authorities' restrictions and military operation continue to severely limit the availability of food, water, healthcare, electricity and communications. Over a quarter of the population are starving, while **every single person is hungry** according to several UN Special Rapporteurs.

We are also concerned that to date Hamas and other armed groups are holding more than 130 **Israelis** and third country nationals as hostages, an ongoing war crime.<sup>3</sup> While we welcome the delivery of medication to hostages, civilian hostages must be immediately released. Little has been done towards seeking truth and redress for the victims of Hamas and other armed groups attack on 7 October, which has led to the death of at least 1,139 people, including 36 children according to the Israeli authorities. Hamas and other armed groups have continued to launch indiscriminate rocket attacks into Israel.

On the **West Bank**, we welcome the increased concern by the EU over the human rights situation there but are concerned that the EU focus has been limited to settler violence, which accounts for less than 3% of the killing of at least 542 Palestinians, including 131 children since January 2023, while 36 Israelis were killed across the West Bank, including occupied East Jerusalem and Israel in the same period. Thousands of Palestinians have been wounded and thousands of others arbitrarily arrested in the same period, including children. Israeli authorities and settler attacks have led to the displacement of hundreds of Palestinians across the West Bank, including occupied East Jerusalem, while the Israeli government continued to authorize more settlements. It is vital that the EU acknowledges the reality **that Israeli authorities** are primarily responsible for killing wounding and displacing the majority of Palestinians in the West Bank including East Jerusalem. Of grave concern is also the spike in arbitrary arrests and the abuses by Israeli forces against Palestinian prisoners, in particular the inhumane treatment and enforced disappearance of Palestinians detainees from Gaza. Torture, inhuman treatment, enforced disappearances, and outrages upon personal dignity committed in situations of armed

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<sup>3</sup> Amnesty International, Israel/OPT: Hamas and other armed groups must release civilian hostages and treat all captives humanely, 7 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-hamas-and-other-armed-groups-must-release-civilian-hostages-and-treat-all-captives-humanely/>

conflict and occupation are war crimes, when committed as part of a systematic or widespread attack against civilians they amount to crimes against humanity and must be investigated as such.

In **Lebanon**, we are concerned with the escalation in hostilities and violations of IHL. Clashes between Israeli forces in northern Israel and Hizbollah and other armed groups in south Lebanon have resulted in the killing of at least 24 Lebanese civilians and at least six Israeli civilians, and civilian objects were also destroyed in these attacks both in Israel and Lebanon. Threats by Israeli leadership of repeating in Beirut what happened in Gaza are worrying signs that the situation could lead to widespread human rights violations. While we welcome EU calls for de-escalation, such calls are not accompanied by clear calls for respecting IHL and taking concrete measures to hold perpetrators of crimes committed accountable. We remind you that ultimately the catastrophic magnitude of death and destruction in Israel and the Occupied Palestinian Territories is the result of entrenched impunity for crimes against humanity, war crimes and other violations of IHL.

In the **Red Sea**, Amnesty International condemns the attacks by the Houthi armed group on commercial shipping and the abduction of at least 25 crewmembers. It is vital that any military operations against the Houthis are conducted in line with international law.

As you discuss the situation in the Middle East, Amnesty International recommends that the EU and individual EU member states adopt the following steps:

- **Publicly demand an immediate and sustained ceasefire** by all parties in the occupied Gaza Strip and Israel.<sup>4</sup> We share the view of 153 states and majority of UN bodies that a ceasefire is the only way to save lives, address the humanitarian crisis and facilitate the return of civilian hostages currently held in the Gaza Strip;
- **Put public pressure on the state of Israel to immediately lift its illegal blockade of the Gaza Strip**,<sup>5</sup> including by ensuring that adequate food, water, fuel and medical supplies, as well as humanitarian aid, communications and electricity are available to all residents;
- **Maintain calls for Hamas and other armed groups** to immediately and unconditionally release all civilian hostages and ensure that they are treated humanely in line with international law;
- **Call for Israel to release arbitrarily detained and enforced disappeared Palestinians**;<sup>6</sup>
- All those deprived of their liberty must be humanely treated at all times.
- **Commit to supporting the ICJ's critical independent adjudication of South Africa's application and request for provisional measures**, by refraining from any form of political statement which may delegitimize the Court in its ongoing judicial assessment and genuinely commit to respecting any order which may be made on provisional measures in the case;

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<sup>4</sup> Amnesty International, Israel/OPT: Urgent need for a sustained ceasefire to end civilian bloodshed and mass suffering as fighting resumes, 1 December 2023, <https://www.amnesty.org/en/latest/news/2023/12/israel-opt-urgent-need-for-a-sustained-ceasefire-to-end-civilian-bloodshed-and-mass-suffering-as-fighting-resumes/>; Amnesty International, Israel/OPT: Urgent call for an immediate ceasefire by all parties to end unprecedented civilian suffering, 26 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-urgent-call-for-an-immediate-ceasefire-by-all-parties-to-end-unprecedented-civilian-suffering/>; Amnesty International, Israel/OPT: Paris Conference must push for an immediate humanitarian ceasefire, 8 November 2023, <https://www.amnesty.org/en/documents/mde15/7388/2023/en/>; Amnesty International, Israel/ OPT: Deal to release hostages and prisoners must pave way for further releases and a sustained ceasefire, 22 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-deal-to-release-hostages-and-prisoners-must-pave-way-for-further-releases-and-a-sustained-ceasefire/>

<sup>5</sup> Amnesty International, Israel/OPT: Israel must lift illegal and inhumane blockade on Gaza as power plant runs out of fuel, 12 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-israel-must-lift-illegal-and-inhumane-blockade-on-gaza-as-power-plant-runs-out-of-fuel/>

<sup>6</sup> Amnesty International, Urgently investigate inhumane treatment and enforced disappearance of Palestinians detainees from Gaza, 20 December 2023, <https://www.amnesty.org/en/latest/news/2023/12/urgently-investigate-inhumane-treatment-and-enforced-disappearance-of-palestinians-detainees-from-gaza/>; Amnesty International, Israel/OPT: Horrifying cases of torture and degrading treatment of Palestinian detainees amid spike in arbitrary arrests, 8 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-horrifying-cases-of-torture-and-degrading-treatment-of-palestinian-detainees-amid-spike-in-arbitrary-arrests/>

- **Publicly denounce violations by all sides to the rules of international humanitarian law**, naming them, including the prohibition of direct attacks on civilians and on civilian objects,<sup>7</sup> indiscriminate and disproportionate attacks, collective punishments, hostage-taking, abduction of civilians and violations of the right to life and the prohibition of torture and other ill-treatment and of enforced disappearance in Gaza, Israel, the West Bank, including occupied East Jerusalem, and in Lebanon;
- **Call on Israeli authorities to cooperate with international investigative bodies and observers**, including the ICC, the UN Commission of Inquiry, UN special Rapporteurs and bodies and international media, by granting them unfettered access to Israel and the Occupied Palestinian Territories in order to investigate crimes committed by all parties to the conflict;
- **Unequivocally, unconditionally and publicly support the work of the International Criminal Court (ICC)**, by ensuring that the ICC has the political, diplomatic and financial support it needs to carry out its mandate;
- **The EU must recognize the root causes of the conflict in order to play a constructive role in any “day after” discussions**, by acknowledging the reality of the Israel’s system of apartheid against Palestinians and banning trade with Israeli settlements in the occupied West Bank;
- **Refrain from supplying arms to Israel**, given that serious human rights violations and violations of international humanitarian law amounting to crimes under international law are being committed.

We stand ready to meet you to discuss our concerns detailed above or provide any further information as you may require.

Yours sincerely,



Eve Geddie  
 Director  
 Amnesty International – European Institutions Office

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<sup>7</sup> Amnesty International, Israel/OPT: ‘Nowhere safe in Gaza’: Unlawful Israeli strikes illustrate callous disregard for Palestinian lives, 20 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-nowhere-safe-in-gaza-unlawful-israeli-strikes-illustrate-callous-disregard-for-palestinian-lives/>; Amnesty International Citizen Evidence Lab, Israel/OPT: Identifying the Israeli army’s use of white phosphorus in Gaza, 13 October 2023, <https://citizenevidence.org/2023/10/13/israel-opt-identifying-the-israeli-armys-use-of-white-phosphorus-in-gaza/>; Amnesty International, Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza, 20 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>