

Reference No: **TIGO IOR 10/2024.5191**

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

15 February 2024

Dear High Representative,
Dear Ministers of Foreign Affairs,

AMNESTY INTERNATIONAL LETTER AHEAD OF THE FOREIGN AFFAIRS COUNCIL, ON WORRYING SIGNS OF GENOCIDE IN GAZA AND IMPENDING INVASION OF RAFAH

We are writing to you ahead of the Foreign Affairs Council meeting in relation to the worrying signs of genocide in the occupied Gaza Strip, **and the impending Israeli ground invasion of Rafah, which, coupled with the ongoing military operations in the southern areas, would result in further mass civilian casualties. Due to Israel's military operations and ostensible 'evacuation' orders, the current population present in Rafah is five times higher than usual.** We strongly emphasize the urgent need for a sustained **ceasefire** and other measures the EU and member states must take to address the man-made human rights and humanitarian crisis as addressed in the International Court of Justice (ICJ) order on preliminary measures of 26 January 2024.

The EU's policy towards Gaza has so far been plagued by disunity, as several EU states have been adopting double standards, showing utter disregard to international law and the lives of Palestinians. **We thank the EU leaders and those of member states that have adopted positions in line with international law and humanity, and we strongly encourage other EU leaders to follow suit.**

Amnesty International's researchers, along with our field researcher based in the Gaza Strip continue to document and analyze serious violations of international humanitarian law by Israeli forces. **To date, we have investigated 22 unlawful air strikes that have killed at least 496 civilians and injured nearly 1,000 others across Gaza, most of these attacks were in Rafah.**¹ Our investigations have revealed that in all these attacks there were no military targets and no effective warning to civilians, suggesting that these were deliberate attacks on civilians or civilian structures. Even if there were legitimate

¹Not all results have been published to date, see for example Amnesty International, Israel/OPT: New evidence of unlawful Israeli attacks in Gaza causing mass civilian casualties amid real risk of genocide, 12 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/israel-opt-new-evidence-of-unlawful-israeli-attacks-in-gaza-causing-mass-civilian-casualties-amid-real-risk-of-genocide/>

military targets in the vicinity, the failure of Israel to distinguish between military objectives and civilian objects and would therefore be indiscriminate. These attacks must be investigated as war crimes. We have also found that Israel's blockade and denial of essential services and key supplies to the Palestinian population in Gaza amount to collective punishment, a war crime.²

However, these findings present a small part of the horrific reality in Gaza. Israeli bombardment has killed at least 28,663 Palestinians, including at least 12,300 children, and wounded 68,395 others, while about 10,000 remain under the rubble (a total of 4.8% of Gaza population), according to the Palestinian Ministry of Health. **At least 156 UNRWA staff, and 78 journalists were killed also in Gaza, making the Israeli bombardment of Gaza since October 2023 the deadliest conflict for staff and journalists.** Instead of investigating their deaths, Israel has continuously delegitimized and demonized UNRWA workers and journalists. Further, Israeli authorities continue to subject the residents of Gaza to collective punishment imposed through the illegal blockade of Gaza, which was further tightened and brought to a near-total siege on 9 October 2023. According to UNRWA, 1.7 million people, or nearly 75% 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 leading to widespread hunger and increase of diseases among the population including children. **Meanwhile, Hamas and other Palestinian armed groups continue to hold 134 hostages taken from Israel, according to the Israeli government's estimates.**

It is quite astonishing that in the face of humanitarian catastrophe, some members of this union have decided to suspend funding to UNRWA which is the largest provider of lifesaving aid and essential services to Palestinian refugees in Gaza and broader region.³ We note that to date, not a single government among those who suspended funding have investigated the allegations against 12 out of the 30,000 UNRWA staff, 13,000 of whom work in Gaza, or other allegations voiced by Israel. **Amnesty International have examined the six-page allegation dossier presented by Israel and found that it provides no evidence that UNRWA bears any responsibility for the alleged acts presented against 12 individuals, whose alleged acts took place outside the context of their work with UNRWA.** Regardless, the UN has fired ten the staff in question and launched an internal and external investigation into the allegations and work of UNRWA.⁴ Given the fact that all major UN bodies and humanitarian organizations, as well as the DG ECHO, have made it clear that there are no other bodies that can replace UNRWA, calls for shifting funding to other bodies essentially mean denying millions of Palestinians lifesaving aid. Finally, the suspension of lifesaving aid to Palestinians would not only impact Palestinians in Gaza, but up to 5.9 million Palestinians in the entire region, with consequences likely to reverberate across the region and Europe.

Despite the abundance of irrefutable evidence concerning Israel's violations of IHL and the ICJ's order indicating that Israel's actions in Gaza plausibly violate the Genocide Convention, several EU states, including some who have suspended UNRWA's funding, continue to supply Israel with arms. **Indeed, the Hague's court of appeals just ordered the Dutch government to suspend the transfer of F-35 parts to Israel, owing to the clear risk of contributing to violations of international humanitarian law.** Amnesty International considers that EU states continuing to supply arms to Israel are violating their responsibility to prevent genocide, in view of the ICJ provisional measures, and risk contributing to war crimes and the crime against humanity of apartheid.⁵

We also point out that the upcoming FAC coincides with the beginning of the public hearings in the request of an ICJ Advisory Opinion concerning the Legal Consequences arising from the Policies and Practices of Israel in the Occupied

²Amnesty 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/>

³ Amnesty International, Israel/OPT: States must reverse cruel decision to withdraw UNRWA funding, 29 January 2024, <https://www.amnesty.org/en/latest/news/2024/01/israel-opt-states-must-reverse-cruel-decision-to-withdraw-unrwa-funding/>

⁴ Two others were killed by then.

⁵ Amnesty International, Israel must comply with key ICJ ruling ordering it do all in its power to prevent genocide against Palestinians in Gaza, 26 January 2024, <https://www.amnesty.org/en/latest/news/2024/01/israel-must-comply-with-key-icj-ruling-ordering-it-do-all-in-its-power-to-prevent-genocide-against-palestinians-in-gaza/>

Palestinian Territory, including East Jerusalem. We remind you that the position of the European Union and member states that Israel is occupying Palestinian Territories and that settlement building anywhere in the OPT, including East Jerusalem, is illegal under international law. **Amnesty International finds that by virtue of the Israel's protracted violations of the core principles of the international law of occupation and the imposition on its system of apartheid on all Palestinians whose rights it controls, Israel's good faith in conducting itself as an occupying power is disputable and as such its belligerent occupation of the OPT must end.** Amnesty International also finds that all states must cease supporting the state of Israel in maintaining its illegal occupation, including its stark violations of international law, such as the illegal annexation of East Jerusalem and the establishment and expansion of settlements across the West Bank including occupied East Jerusalem, which also amount to the crime of transfer of population, as well as the continued forcible displacement of Palestinians.

Most recently, our organisation has found that over the past four months **Israeli forces have unleashed a brutal wave of violence against Palestinians in the occupied West Bank**, including occupied East Jerusalem, carrying out unlawful killings, including by using lethal force without necessity or disproportionately during protests and arrest raids, and denying medical assistance to those injured⁶. Since 7 October 2023, 389 Palestinians, including 100 children, have been killed in the West Bank, including East Jerusalem; and 4,499 Palestinians, including 697 children according to OCHA.

In view of the crisis in Israel and the Occupied Palestinian Territories, with its regional implications in Lebanon, Syria, Iraq and beyond, Amnesty International recommends that the EU and individual EU member states adopt the following steps:

- **Publicly demand an immediate ceasefire** by all parties in the occupied Gaza Strip and Israel, and use all diplomatic means to put pressure on all parties to accept a ceasefire;
- **Ensure that the EU and member states maintain funding for UNRWA**; We thank the member states who have maintained and increased their contributions and call on states that have suspend funding to immediately reverse such inhumane decisions;
- **The Commission must launch a review into whether Israel is abiding by its obligations under international law as stipulated in the EU-Israel Association agreement**; such review is key to ensure that the EU is not complicit in any violation of international law, to signal to Israel and the entire world that the EU takes respect for human rights and international law seriously and should layout steps for the EU to address potential violations of Israel to its obligations;
- **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, 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;
- **Support the ICJ's critical independent adjudication of South Africa's case against Israel under the Genocide Convention**, its order that Israel take provisional measures; as well as the request for an Advisory Opinion by the ICJ on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, by refraining from any form of political statement which may delegitimize the Court in its ongoing judicial assessment;
- **Maintain calls for Hamas and other armed groups** to immediately and unconditionally release all civilian hostages and ensure all captives are treated humanely in line with international law;
- **Call for Israel to release arbitrarily detained** Palestinians, including those forcibly disappeared;

⁶ Amnesty International, Shocking spike in use of unlawful lethal force by Israeli forces against Palestinians in the occupied West Bank, 5 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/shocking-spike-in-use-of-unlawful-lethal-force-by-israeli-forces-against-palestinians-in-the-occupied-west-bank/>

- **All member states must ensure that they are not directly or indirectly supplying Israel with arms**, failure to do so risks contributing to war crimes and the crime against humanity of apartheid and violates their obligation to prevent genocide;
- **The EU and member states must recognize the root causes of the conflict in order to play a constructive role in any “day after” discussions**, by acknowledging that Israel’s system of apartheid against Palestinians must be dismantled, and Israel’s occupation of the OPT must end;
- **The EU and member states must also ensure that they are not complicit in Israeli violations of international law**, by refraining from any cooperation with the state of Israel that is contributing to maintaining the illegal occupation of Palestinian Territories or the system of apartheid against Palestinians, and banning trade with Israeli settlements in the occupied West Bank;
- **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, international media, and human rights NGOs, by granting them unfettered access to Israel and the Occupied Palestinian Territories in order to investigate crimes committed by all parties to the conflict;

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

Sincerely,



Eve Geddie
Director
Amnesty International – European Institutions Office