

Date, 23rd January 2024

**H.E. Alexander de Croo**

Prime Minister

c/o Permanent Representation to the European Union

Brussels

**Subject:** Call on the EU to uphold and ensure observance of international law in Israel/occupied Palestinian law

Your Excellency,

As staff members of the European Union Institutions, many of whom are EU citizens, we write to you in your capacity as holder of the Presidency of the Council of the European Union.

We request that the European Union upholds its own legal obligations of contributing to peace, security, solidarity and mutual respect among peoples **in its decisions, actions, and positions**. In particular, the protection of human rights, the rights of the child, and the strict application and development of international law, including respect for the principles of the United Nations Charter.

These principles have inspired the creation of the EU and its obligation to advance them in the wider world as **provided for in the Treaty of the European Union**.

In the aftermath of the terrorist attack by Hamas and the ongoing disproportionate Israeli reaction on the Gaza Strip, as well as the intense military operation and settlers attacks in the West Bank, the following appeals have been made (copy of the letters are attached herewith) to the EU leadership:

1. A letter to the Presidents of the European Parliament and the European Commission by the staff of the European Union Representative Office for the West Bank, Gaza Strip and UNRWA (EUREP), on 14<sup>th</sup> October 2023;
2. A letter to the President of the European Commission by almost 800 EU staff in HQs and Delegations, on 20<sup>th</sup> October 2023;
3. A letter to the President of the European Parliament, the President of the European Council, the President of the European Commission, the Higher Representative/Vice President, subscribed by more than 2,200 EU staff, on 15<sup>th</sup> November.

4. An EU staff sit-in calling for ceasefire on the occasion of the European Union Council on 14<sup>th</sup> December 2023.

Unfortunately, these appeals have been met with no response, let alone any indication of policy change.

The EU staff mobilisation echoes the mobilisation of hundreds of thousands European citizens in many European capitals and major cities, despite measures taken by several Member States (MS) to curtail freedom of association and expression.

Your Excellency,

This letter does not intend to cover all the facts and reports on the human tragedy unfolding before our eyes since 7<sup>th</sup> October neither to recall the widespread violation of international human rights law and international humanitarian law in the last 56 years of occupation of the Palestinian territory by Israel. This letter can only refer to the body of evidence such as UN reports and resolutions, Advisory Opinions of the International Court of Justice, World Bank, Palestinian, Israeli and international NGOs reports, media and other reliable sources reports, and obviously the numerous internal and public reports produced by the EU institutions.

Despite the unprecedented limitations imposed by Israel, ranging from a ban on foreign journalists to access the Gaza Strip to the killing of scores of Palestinian journalists, in a wider context of repeated communication blackouts, information is largely available. No decision-maker can credibly claim that they did not know that the Israeli operation has caused the death of more than 24,000 people in the Gaza Strip (without counting those still missing under the rubble), including more than 10,000 children (we insist on the macabre death toll of children), massive destruction of hospitals, schools, housing and forced displacement, with a critical shortage of medical supplies, food and water as a result of Israel's continued blockade to the access of humanitarian aid: Israel, as occupying power, continues to control the border with Egypt.

No decision-maker can credibly claim that they ignore that the daily death toll of Palestinians in Israel's war on Gaza surpasses that of any other major conflict in the 21<sup>st</sup> century<sup>1</sup>, amidst Israeli attempts to justify this alleged genocidal operation as a legitimate right to self-defence – a claim sadly bought-in to and repeated by the highest EU hierarchies. As a matter of fact, being the occupying power, Israel

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<sup>1</sup> <https://www.aljazeera.com/news/2024/1/11/gaza-daily-deaths-exceed-all-other-major-conflicts-in-21st-century-oxfam>

does not enjoy such a right, as clearly stated in paragraph 139 of the International Court of Justice Advisory Opinion of the legality of the wall, dated 2004<sup>2</sup>.

No decision-maker can credibly claim that they did not hear the warnings and alerts “never again”, as they resonate with the trauma of the Holocaust and of the Nakba.

Despite the above, the EU’s decision makers have failed to use the whole range of tools at its disposal to influence Israel’s leadership so that it fulfils its obligations under international law, including its obligations as “occupying power”, and does not undertake policies and actions amounting to crimes under the Rome Statute.

Over the past years, and possibly decades, the EU has provided Israel’s leadership with access to a range of EU programmes, funding and agreements, without any tangible progress in return for the situation of the Palestinians, let alone for a two-State solution increasingly undermined by Israeli leadership and Israel’s facts on the ground.

Your Excellency,

As EU staff and EU citizens, we expect the EU leadership to lead by example and abide to the Treaty on the European Union, stating in Article 3 that *“In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and **the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter**”*.

The events unfolding since the 7<sup>th</sup> October must represent a turning point for international law and humanity to eventually prevail after decades of unfulfilled commitments.

We welcome the stance taken by Belgium to break silence. Therefore, we turn to you and call for a change to the course of action with regards to the situation in Israel/occupied Palestinian territory. This is particularly important in light of the increasing risk of escalation in the region and the growing isolation of the EU due to the deterioration of its reputation and leverage before its partners in the whole

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<sup>2</sup> <https://www.un.org/unispal/document/auto-insert-178825/>

world. It is worth highlighting that the Non-Aligned Movement issued a statement at its 19<sup>th</sup> summit slamming Israeli aggression, calling for an immediate and durable ceasefire and the establishment of the Palestinian sovereign state.<sup>3</sup>

Your Excellency,

Against this background, we demand that the European Union:

- 1) Clearly states its support to international judicial institutions and UN and other mechanisms, with a view to ensure accountability, and prevent further crimes. The EU should notably reiterate, and apply to the situation in Israel/oPt, its **Council Decision 2011/168/CFSP of 21<sup>st</sup> March 2011 on the International Criminal Court** which clearly provides that: *“The Union and its Member States are determined to put an end to the impunity of the perpetrators of those crimes by taking measures at national level and by enhancing international cooperation to ensure their effective prosecution.”* (Recital 6)<sup>4</sup>. The EU institutions and EU MS should collaborate in any form to support and facilitate the ICC Prosecutor’s investigation, while the EU MS may be encouraged to use their “universal jurisdiction” whenever applicable.
- 2) **Unequivocally and publicly reiterates its support to the International Court of Justice** following the hearings in the dispute between South Africa vs Israel, as well as in anticipation of the 19<sup>th</sup> February hearings on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Request for Advisory Opinion).<sup>5</sup>
- 3) **Uses its leverage to bring the current military operations in Israel and occupied Palestinian territory (Gaza Strip and West Bank, including East Jerusalem) to an end**, in line with, and similar to, the measures taken against Russia over Ukraine (Sanctions against Russia Individual restrictive measures Economic sanctions, Bans on media outlets, Diplomatic measures, Visa measures, Restrictions on economic relations and cooperation).<sup>6</sup>
- 4) **To comply with the EU’s support to the Arms Trade Treaty (ATT)**, most recently expressed at the 9<sup>th</sup> Conference of States Parties to the Arms Trade

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<sup>3</sup> <https://www.aa.com.tr/en/africa/non-aligned-movement-states-slam-israeli-aggression-call-for-cess-fire-in-gaza/3114629>

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011D0168>

<sup>5</sup> <https://www.icj-cij.org/node/203222>

<sup>6</sup> <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/>

Treaty in Geneva, 21-25 August 2023<sup>7</sup>. If warranted, this could pave the way to an arms embargo.

- 5) **Suspends the Association Agreement between the EU and Israel, with a specific reference to Art. 2<sup>8</sup>** of the Agreement and review all existing bilateral agreements and ongoing processes, with possible immediate action such as a freeze of all contacts between the European Commission and Israel in relation to the review of the **2011 Commission Decision according to Directive 95/46/EC** of the European Parliament and of the Council “on the adequate protection of personal data by the State of Israel with regard to automated processing of personal data”<sup>9</sup>, and a suspension of the implementation of the 2011 decision in the context of the allegations of crimes under the Rome Statute and following the 2020 judgement of the Court of Justice of the European Union<sup>10</sup>.
- 6) Ensures that all current and future discussions, policies and actions are informed by a **sound assessment of the past failures and shortcomings in the EU policy and partnership**, including by assessing and redressing the economic burden on European tax payers for the costs of the Israeli occupation of the oPt.
- 7) Refraining from unilateral discussions on the “day after” against the **rights of self-determination of the Palestinian people**; but rather engage in support of the Palestinian efforts for unity so as to ensure legitimization of the Palestinian leadership.

Your Excellency,

We would like to echo Jacques Delors’s plea for our institutions, “*c’est le moment de donner une âme à l’Europe*”. In his memory, we invite you and all EU leaders to urgently remedy this situation where the EU’s foundation internally and credibility globally is questioned, as it fails to apply the same standards of international law in the situation in Israel/occupied Palestinian territory as it has done in other conflicts.

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<sup>7</sup> [https://www.eeas.europa.eu/delegations/un-geneva/eu-statement-treaty-implementation-arms-trade-treaty\\_en?s=62](https://www.eeas.europa.eu/delegations/un-geneva/eu-statement-treaty-implementation-arms-trade-treaty_en?s=62)

<sup>8</sup> [EUR-Lex - 22000A0621\(01\) - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eur-lex-content/EN/TXT/PDF/?uri=CELEX:32011D0061)

<sup>9</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011D0061>

<sup>10</sup> [Article 46\(1\) and Article 46\(2\)\(c\) of Regulation 2016/679](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679)

More than 100 days since this particularly devastating conflict erupted, and more than 55 years after the occupation began, it is about time that the EU leadership responds to the call made by the UN Secretary General Guterres “Everyone must assume their responsibilities. This is a moment of truth. History is judging us all.”<sup>11</sup>

Best regards,

Encl.

- Copy of the letter to the Presidents of the European Parliament and the European Commission by EUREP staff
- Copy of the letter to the President of the European Commission by EU staff
- Copy of the letter to the President of the European Parliament, the President of the European Council, the President of the European Commission, the Higher Representative/Vice President, by EU staff.

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<sup>11</sup> <https://news.un.org/en/story/2023/10/1142912>