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United Nations General Assembly calls on international justice to pronounce on Israel's occupation of Palestinian territories



Sources: Rebellion

On Friday, November 11, with an overwhelming majority of 98 votes in favor and only 17 against, the United Nations General Assembly approved a resolution requesting the International Court of Justice (ICJ) to rule on the effects of Israel's illegal occupation and colonization of Palestinian territories.

The resolution is entitled "Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem."

How It has already been usual in indisputable victories of some (and defeats) diplomatic for others), the vote on this resolution was not largely referenced in the major international media.

Dealing with of a year like 2022 in which a Member State of the United Nations like Ukraine suffering military aggression from Russia from the February 24, has captured the attention of all the media international resolutions (there being several resolutions of the same Assembly General on respect for territorial integrity, the obligation to discriminate against military objectives of civilian populations when it comes to order a military operation, and the imperative need to respect Russia's other obligations arising from the Charter of the United Nations and International Humanitarian Law), the Observed omission raises some very valid questions. This without Talk about abstentions and votes against, recorded during The vote took place on 11 November.

¿Perhaps it is not in the interest of any Member State of the United Nations and of the international community as such that these same rules invoked, with Just reason, for Ukraine to be applied uniformly and be duly respected by all other states, including Israel (Note 1) ?

The details of the vote in brief



In this photograph of the vote log taken from this [Times of Israel story](#) (edition of November 11, 2022), our esteemed readers will be able to appreciate how each of the 193

Member States of Nations voted Unidas. As well as in this [note](#) published in the Costa Rican digital media of Delfino.cr (one of the few published in Costa Rica about it, which does not explain officially for what reasons Costa Rica chose to abstain). What will it be? the phrase of this resolution that led several States in this 2022 to review its position in relation to similar texts voted in years previous with your affirmative vote? What fear can the fact cause them? to ask the international judge to examine in detail the illegal occupation of the Palestinian territory in the light of existing international norms?

At 98 votes in favour and 17 against, a total of 52 abstentions must be counted as well as 25 "No Show" (absence of the delegate at the time of registration of the vote).

On the part of Latin America, Israel and its faithful North American ally could only reap the negative vote of Guatemala (and count on the abstentions of Colombia, Costa Rica, Ecuador, Haiti, Honduras and Uruguay); while in Europe, Austria, Estonia, Germany, Hungary, Italy, Lithuania and the Czech Republic managed to vote against (as well as 25 abstentions, including those of France, Spain, the Netherlands and the United Kingdom).

Bolivia and Venezuela appear among the "No Show", with one difference, however, it is necessary to specify: due to arrears in the payment of its annual contribution as a Member State, Venezuela cannot participate in votes in the General Assembly from the Month of January 2022.

As indicated above, the Voting on this resolution was very little publicized in the media of International press. It is noteworthy that a day before (10 of November) an official United Nations press release reported the Vote to be taken 24 hours later by the plenary body of United Nations (see [official note](#) from the United Nations press service).

The Ukraine's vote in favour of this resolution seems to have deeply upset Israel, choosing to abstain in a subsequent ruling on Russia's obligation to compensate for damage caused in Ukraine since February 24 (see *Times of Israel* [article](#) and our brief [note](#) on this resolution adopted in favor of Ukraine on November 15).

The origin of the ICJ application

This Resolution that seeks to bring Palestine closer to international justice is very similar to that adopted in previous years by the General Assembly of United Nations, with only one significant addition with respect to the request made to the ICJ for the version of this 2022. How then explain the sudden change of heart of some States on the matter?

One Recent article in the Uruguayan press shows the change of position of the delegate of Uruguay in 2022 in relation to the 2021 vote (see [ElObservador](#) press [release](#)): A more observant press in other latitudes of the continent would confirm that this change of position (an abstention instead of a vote in favor) is not a monopoly of Uruguay, and that in Central America also There were changes of position without any explanation on the part of government authorities (**Note 2**).

With in relation to the request made to the ICJ in the 2022 resolution, It comes from the following fact, also scarcely disseminated: a report Recent release – October 2022 – by a commission of research established by the Human Rights Council on occurred in 2021 in Palestine – (see [official link](#) and [text](#) in English) included in its final recommendations that:

«**92.***The Committee recommends that the General Assembly:*

(a) Urgently request an advisory opinion from the Court International Justice on the Legal Consequences of the Refusal Israel's continued cessation of its occupation of the Occupied Palestinian Territory, including East Jerusalem, which amounts to a de facto annexation, of policies employed to achieve this, and Israel's refusal to respect the right to The Palestinian people to self-determination, as well as the obligations of the third States and the United Nations to ensure respect for the right international;

(b) Transmit the present report to the Security Council and request it to consider further measures to put an end to the illegal status resulting from the permanent occupation imposed by Israel; call upon the Security Council to demand that Israel end its occupation permanent immediately".

Result It was striking that this suggestion regarding the ICJ was immediately endorsed by a group of States, denoting a Very skillful and accurate diplomatic strategy to obtain the figures recorded during the aforementioned vote on 11 November.

Note In the same way the little diffusion made by some large media of Press to the content of this report presented in October 2022 by This Committee of Inquiry, the full reading of which is recommended. As is customary, Israel's diplomatic apparatus does not He found nothing better than trying to discredit the three members. of this commission (see [PassBluearticle](#)), an attitude that no longer impresses anyone else within the United Nations.

The two questions posed to the ICJ in the request for an advisory opinion

In for the text of resolution A/C.4/77/L.12/Rev.1, read in part final resolution, that the General Assembly of the United Nations:

'18. Decides, in accordance with Article 96 of the Charter of the United Nations United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following questions, taking into account the rules and principles of international law, includes the Charter of the United Nations, international humanitarian law, the International human rights law, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council; Advisory Opinion of the Court dated 9 July 2004:

(a) What are the legal consequences of Israel continue to violate the right of the Palestinian people to self-determination, of their Protracted occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures to alter composition demographic, the character and status of the Holy City of Jerusalem, and of the adoption by Israel of legislation and related discriminatory measures?

(b) How do Israel's policies and practices referred to in the Paragraph 18 (a) to the legal status of occupation and what legal consequences are derive from that status for all States and for the United Nations?«

This is a new request for an advisory opinion made by the United Nations General Assembly, after another made in December 2003. The latter gave rise to the July 2004 ICJ opinion on the legal consequences of Israel's construction of a wall in the Occupied

Palestinian Territory. The question that had been put to the international judge in 2003 was as follows:

«Which are the legal consequences arising from the construction of the wall erected by Israel, the occupying Power, in the territory Occupied Palestinian, including in and around East Jerusalem, according to is described in the report of the Secretary-General, taking into account the rules and Principles of international law, including the Fourth Geneva Convention of 1949 and the relevant Security Council and Assembly resolutions General?»

In the [text](#) of the advisory opinion issued seven months later, and Comprehensive reading is recommended, it will be noted that the resolute part – Paragraph 163(2) – It was taken with 14 votes in favor and only one in against, U.S. judge Thomas Buergenthal (**Note 3**). In this other link of the same ICJ, you can also read the text in [Spanish](#) of this important advisory opinion of 2004.

International justice and States in brief

How It is well known, before the ICJ in The Hague, the advisory opinions they can only be requested by bodies attached to the United Nations (see Article 96 of the [Charter](#) of the United Nations) and not by States. The latter, on the other hand, have the exclusivity of *jus standi* to activate the contentious procedure before the international judge in The Hague.

¿By What not to file a lawsuit in contentious matters before the judge international proceedings against Israel by States interested in Does Israel abide by international regulations? Simply Because legally, there is no way to do it: as will be recalled, the International justice is based on the prior consent of each State. In the case of Israel, its authorities keep their distance with the international justice of The Hague, having never recognized the compulsory jurisdiction of the ICJ by means of the intended declaration in Article 36, paragraph 2, of the Statute (see [official list](#) of States that have made this declaration). In turn, diplomacy of Israel has avoided signing treaties (be they bilateral, regional or multilateral), where an operative clause allows recourse to the ICJ as a dispute resolution mechanism between States Parties.

Beside note that since 2018, the State of Palestine has engaged in a contentious lawsuit against the United States before the ICJ, due to the transfer of the US embassy from Tel Aviv to Jerusalem (see [text](#) of the complaint and [official link](#)). It is of interest to note that the last ICJ ordinance on this case (see [ordinance](#)) dates from the November 15, 2018, setting deadlines for delivery of writings to both States: 15 May 2019 for Palestine, 15 November 2019 for the United States. In this same ordinance, it is read that the United States chose not to participate in a meeting convened by the President of the ICJ with both states scheduled for November 5, 2018. I do not know has more information on this case since then, which raises some questions.

By way of conclusion

More beyond the lack of information from the ICJ on the Palestine case against the United States for more than three years now, and that it should To question some observers and analysts, this resolution voted on Last November 11 raises for the international judge a new challenge.

Again Palestine and its allies knock on the door of international justice The Hague, in view of the violations of international norms to which The Israeli authorities have been acting for many years in a Repeated. In this respect, it is recommended that the recitals be read of the above-mentioned resolution A/C.4/77/L.12/Rev.1, in which the number of UN reports and resolutions is listed adopted in previous years, and which Israel ignores in its actions or It seeks to discredit, in its own way.

The consultative procedure provides for the possibility for States and organizations to submit their opinion to the ICJ (see [list](#) of opinions received in 2004 by the ICJ), so this new The exercise will make it possible to know the scope that some States recognize to the international standards whose violation is alleged in the case of Ukraine (and should be the same in the case of Palestine). Reviewing who voted for and against this request, and who voted for and against abstained, it is very likely that the legal departments of some Diplomatic apparatuses look for how to explain that these rules They apply in one case but not necessarily in another: consistency and Coherence will undoubtedly be a significant challenge for those who try to second Israel's position before the international judge of the Beech.

In relation to another international jurisdiction also located in the Dutch capital, the International Criminal Court (ICC), which judges from the point of view of criminal hearing of individuals (and not States), and which has also been requested in this 2022 by Ukraine (see[link](#)), We had the opportunity to analyze the scope of a decision of the ICC Pre-Trial Chamber of 5 February 2021. In this decision, declared that the ICC is competent to consider a petition made by Palestine against Israeli military and political commanders: see our[note](#) entitled "*Court International Criminal Law (ICC) / Palestine: an end to impunity for perpetrators of war crimes committed in Palestine?*" In this text, in which we also referred to a number of States that felt forced to justify the position defended by Israel before the judges of the ICC (without much success), we concluded that:

«... With this decision, the way is cleared for the international criminal justice to examine everything observed, documented and denounced in the Palestinian territory – and this since June 2014 – which has so many Palestinian families in mourning, waiting since then for justice and crying out for it.

The Resolution adopted on November 11, 2022 at the headquarters of The United Nations in New York is the first step of a A procedure that will undoubtedly bring the International justice to the human drama that has been going on for many years in The Occupied Palestinian Territory, in open and flagrant violation of the Rules of the international legal order.

Material: text of resolution adopted by the Assembly (A/C.4/77/L.12/Rev.1) General of the United Nations on November 11, 2022 available in the Various official languages[here](#).

Notes

Note 1: On the case of Ukraine and Russia, we refer to our brief analysis on Russia's failure to appear before the Hague judge: **BOEGLIN N.**, '*The Force of law against the right to force. About the no Russia's appearance before the International Court of Justice (ICJ)*', Portal of the University of Costa Rica (UCR), Expert Voice Section, edition of March 23, 2022. Text available[here](#).

Note 2: Resolution A/Res/76/82 of December 2021 entitled "*Israeli practices and settlement activities affecting the rights of the Palestinian People and other Arabs of the occupied territories*" can be read at this [link](#) and its content can be compared with the resolution of 2022 A/C.4/77/L.12/Rev.1/. The details of the vote on the 2021 resolution (147 votes in favour, 17 against and 20 abstentions) are available [here](#). In 2021, the following states voted in favor in Latin America: Argentina, Bolivia, Chile, Costa Rica, Cuba, El Salvador, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic and Venezuela. Herself Brazil, Colombia, Ecuador, Guatemala, Haiti and Honduras abstained. One Similar comparison can be made in relation to the 2021 resolution numbered A/Res/76/89 and entitled '*Palestine refugees' properties and their revenues*' adopted with 159 votes in favour, 5 against and 8 abstentions (see [details](#) of vote) and the resolution voted in 2022. As well as the 2021 resolution numbered A/Res/76/150 (see [text](#)) entitled "*The right of the Palestinian people to self-determination*" adopted with the following vote: 168 votes in favor, 5 against and 10 abstentions: see details of the registered vote [available here](#).

Note 3: For this 2004 ICJ advisory opinion analysed from an international legal perspective, see in particular **ABI-SAAB R.** *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé*: quelques réflexions préliminaires sur l'avis consultatif de la Cour internationale de Justice», *Revue Internationale de la Croix Rouge* (RICR), 2004, pp. 633-657. Full text available [here](#); as well as **BADIA MARTÍ A.**, "*The advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory of July 9, 2004*", *Electronic Journal of International Studies* (www.reei.org). Available on the web; and also **RIVIER R.**, «*Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé. Cour Internationale de Justice. Avis du 9 juillet 2004*», *Annuaire Français de Droit International* (AFDI) 2004, pp. 292-336. Full text available [here](#).

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