

INTERNATIONAL COURT OF JUSTICE

YEAR 2018

**2018
15 November
General List
No. 176**

15 November 2018

RELOCATION OF THE UNITED STATES EMBASSY TO JERUSALEM

(PALESTINE *v.* UNITED STATES OF AMERICA)

ORDER

Present: *President* YUSUF; *Vice-President* XUE; *Judges* TOMKA, ABRAHAM, BENNOUNA, CANÇADO TRINDADE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI, ROBINSON, CRAWFORD, GEVORGIAN, SALAM, IWASAWA; *Registrar* COUVREUR.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 44, 48 and 79, paragraphs 2 and 3, of the Rules of Court,

Having regard to the “Declaration Recognizing the Competence of the International Court of Justice” deposited by the State of Palestine (hereinafter “Palestine”) on 4 July 2018, whereby, pursuant to Security Council resolution 9 (1946) of 15 October 1946 adopted in virtue of the powers conferred upon the Council by Article 35, paragraph 2, of the Statute of the Court, Palestine “accept[ed] with immediate effect the competence of the International Court of Justice for the

settlement of all disputes that may arise or that have already arisen covered by Article I of the Optional Protocol to the Vienna Convention on Diplomatic Relations Concerning the Compulsory Settlement of Disputes (1961), to which the State of Palestine acceded on 22 March 2018”,

Having regard to the Application filed in the Registry of the Court on 28 September 2018, whereby Palestine instituted proceedings against the United States of America (hereinafter the “United States”) concerning alleged violations of the Vienna Convention on Diplomatic Relations of 18 April 1961 (hereinafter the “Vienna Convention”);

Whereas a certified copy of the Application was communicated to the United States on the day it was filed;

Whereas in its Application, Palestine seeks to found the jurisdiction of the Court on Article I of the Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes (hereinafter the “Optional Protocol”);

Whereas Palestine appointed H.E. Mr. Ammar Hijazi, as Agent, and H.E. Ms Rawan Sulaiman, as Co-Agent, for the purposes of the case; whereas the United States was invited to appoint an agent in the case, in accordance with Article 40, paragraph 2, of the Rules of Court; and whereas it has not appointed an agent to date;

Whereas, by a letter dated 11 October 2018, the Registrar invited the representatives of the Parties to a meeting with the President of the Court to be held on 5 November 2018, pursuant to Article 31 of the Rules of Court, in order for the President to ascertain the views of the Parties with regard to questions of procedure in the case;

Whereas, by a letter dated 2 November 2018, Ms Jennifer G. Newstead, Legal Adviser of the United States Department of State, informed the Court that, on 13 May 2014, following the Applicant’s “purported accession” to the Vienna Convention, the United States had submitted a communication to the Secretary-General of the United Nations, declaring that the United States did not consider itself to be in a treaty relationship with the Applicant under the Vienna Convention; whereas she added that, on 1 May 2018, following the Applicant’s “purported accession” to the Optional Protocol, the United States had submitted a similar communication to the Secretary-General of the United Nations, declaring that the United States did not consider itself to be in a treaty relationship with the Applicant under the Optional Protocol; whereas, in her letter, Ms Newstead observed that the Applicant had been aware of these communications by the United States before it submitted its Application to the Court; and whereas she concluded that, according to the United States, “it [was] manifest that the Court ha[d] no jurisdiction in respect of the Application” and that the case ought to be removed from the list;

Whereas, by a letter of the same date, Ms Newstead informed the Registrar that the United States would not participate in the proposed meeting to be held on 5 November 2018 by the President with the representatives of the Parties;

Whereas, on 5 November 2018, the President of the Court met with the representatives of Palestine; whereas, at that meeting, Palestine expressed the wish that the Court decide in favour of its claim and indicated a strong preference for the submission of a Memorial dealing both with jurisdiction and merits, on the grounds that these two aspects were, in its view, closely related, stating that Palestine would need six months for the preparation of the said pleading; whereas Palestine added that, if the Court were to order a first round of written pleadings dedicated solely to the question of its jurisdiction, a time-limit of six months would similarly be necessary for the preparation of a pleading on that question;

Whereas the Court considers, with reference to Article 79, paragraph 2, of its Rules, that, in the circumstances of the case, in particular in view of the fact that, according to the United States, the Court manifestly lacks jurisdiction to entertain Palestine's Application, it is necessary to resolve first of all the question of the Court's jurisdiction and that of the admissibility of the Application, and that these matters should accordingly be separately determined before any proceedings on the merits;

Whereas it is necessary for the Court to be informed of all the contentions and evidence on facts and law on which the Parties rely in relation to its jurisdiction and the admissibility of the Application,

Decides that the written pleadings shall first be addressed to the question of the jurisdiction of the Court and that of the admissibility of the Application;

Fixes the following time-limits for the filing of those pleadings:

15 May 2019 for the Memorial of the State of Palestine;

15 November 2019 for the Counter-Memorial of the United States of America; and

Reserves the subsequent procedure for further decision.

Done in French and in English, the French being authoritative, at the Peace Palace, The Hague, this fifteenth day of November, two thousand and eighteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the State of Palestine and the Government of the United States of America, respectively.

(Signed) Abdulqawi Ahmed YUSUF,
President.

(Signed) Philippe COUVREUR,
Registrar.
