APPLICATION INSTITUTING PROCEEDINGS

To the Registrar of the International Court of Justice (ICJ or The Court), the undersigned, being duly authorised by the Government of the Republic of Nicaragua, states as follows:

1. In accordance with Articles 36 and 40 of the Statute of the Court and Article 38 of the Rules of Court, I have the honour to submit this Application instituting proceedings in the name of the Republic of Nicaragua (Nicaragua) against the Federal Republic of Germany (Germany). Pursuant to Article 41 of the Statute and in accordance with Article 73 of the Rules of the Court, the Application includes a request that the Court indicate provisional measures to preserve the rights invoked herein from imminent and irreparable loss.

I. Introduction

2. This Application refers to the serious breaches of peremptory norms of international law, both conventional and customary, taking place in the Occupied Palestinian Territory (OPT) particularly in the Gaza Strip, and the obligations derived therefrom on the international community.

3. In this Application, Nicaragua requests the Court to adjudge and declare that Germany by its conduct with respect to the serious violations of peremptory norms of international law taking place in the OPT (*a*) has not only failed to fulfil its obligation to prevent the genocide committed and being committed against the Palestinian people – including those in its component part in the Gaza Strip – but has contributed to the commission of genocide in violation of the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter "Genocide Convention"); (*b*) has failed to comply with its obligations under international humanitarian law, derived both from the Geneva Conventions of 1949 and its Protocols of 1977 and from the intransgressible principles of international humanitarian law, by not respecting its obligations to ensure respect for these fundamental norms in all circumstances; and (*c*) has failed to comply with other peremptory norms of general international law in particular by rendering aid or assistance in maintaining the illegal situation of the continued military occupation of Palestine including its ongoing, unlawful attack in Gaza,

and d) has failed to comply with other peremptory norms of general international law in particular by rendering aid or assistance and not preventing the illegal regime of apartheid and the negation of the right of self-determination of the Palestinian people.

4. The situation of Palestine as an occupied territory is well known to the international community, and the Court is currently examining the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* at the request of the General Assembly of the United Nations[1]. In 2004, well before the most recent assault of Israel against the Gaza Strip, the Court had reaffirmed that Palestine was an occupied territory and that the Palestinian people had a right to self determination[2]. The Court also recalled that all States had the obligation not to render aid or assistance in maintaining that situation[3]. Germany ignored this obligation then and has compounded this breach by continuing to aid and assist Israel after the most recent and even grosser violations of peremptory norms of general international law and conventional obligations.

5. The Gaza Strip is part of the Israeli occupied Palestinian territory as spelled out in United Nations Security Council (UNSC) Resolution 2720 (2023) "stressing that the Gaza Strip constitutes an integral part of the territory occupied in 1967, and reiterating the vision of the two-State solution, with the Gaza Strip as part of the Palestinian State"[4]. This small area of land is home to over two million Palestinian refugees who had been ousted or descended from those who had been ousted from their ancestral homes when the State of Israel was created and expelled them. This territory has been under such intense military and security actions and control by Israel, particularly in the last two decades, that it has been called an "open-air prison"[5] and "hell on earth"[6]. The crime of apartheid against the Palestinian People and the

[1] United Nations General Assembly, Resolution 77/247, *Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem*, 30 December 2023.
[2] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, *Advisory Opinion, I.C.J. Reports 2004*, p. 182-183, para. 118.
[3] *Ibid*., p. 200, para. 159.
[4] United Nations Security Council, Resolution 2720 (2023), 22 December 2023.
[5] *See*, for example, "Israel occupation makes Palestinian territories 'open-air prison', UN expert says", *Reuters*, 11 July 2023, available at https://www.reuters.com/world/middle-east/israel-occupation-makes-palestinian-territories-open-air-prison-un-expert-2023-07-11/ (last accessed 20 February 2024).
[6] "Gaza Children Living in 'Hell on Earth' Secretary-General Tells General Assembly, as Calls for End to Violence Crescendo, News of Israel-Hamas Ceasefire Breaks", United Nations, GA/12325, 20 May 2021, available at https://press.un.org/en/2021/ga12325.doc.htm (last accessed 20 February 2024).

infringement of their right to self-determination have also been widely documented[7], and just as widely denounced[8], as Israel has declared and organized a Jewish State to the exclusion of millions of Palestinians who have been methodically discriminated against, dispossessed, confined, forcibly separated and subjugated for more than fifty-years[9].

6. Against this background, on 7 October 2023 Palestinian paramilitary forces from Hamas attacked the Israeli settlements located in the occupied Palestinian territories of Sderot, Kfar Azza, Nir Oz and Be'ri**.** The international community generally understood that Israel had to react and protect its citizens. It could be comprehensible that States such as Germany, friendly to the State of Israel, would support an appropriate reaction to this attack, but this cannot be an excuse for acting in violation of international law. In its Advisory Opinion on the *Construction of a Wall* the Court itself had pointed out that Israel "has to face numerous indiscriminate and deadly acts of violence against its civilian population. It has the right, and indeed the duty, to respond in order to protect the life of its citizens."[10] But the Court immediately added that "the measures taken are bound nonetheless to remain in conformity with applicable international law"[11]. This caveat by the Court on the extent of the permissible measures was given in the

[7] *See*, for example, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, A/HRC/49/87, 12 August 2022; *Israeli Practices towards the Palestinian People and the Question of Apartheid*, Palestine and the Israeli Occupation, Issue No. 1, E/ESCWA/ECRI/2017/1 (2017); "Israel's Apartheid against Palestinians: Cruel System of Domination and Crime against Humanity", Amnesty International, 2022, available at https://www.amnesty.org/en/documents/mde15/5141/2022/en/; A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution, Human Rights Watch, 2021, available at https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution; "A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: this is apartheid", *B'Tselem*, 2021, available at https://www.btselem.org/publications/fulltext/202101_this_is_apartheid; Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports, Al-Haq and others, 2019, available at https://mezan.org/en/post/44996/Joint-Parallel-Report-to-the-United-Nations-Committee-on-the-Elimination-of-Racial-Discrimination-on-Israel%E2%80%99s-Seventeenth-to-Nineteenth-Periodic-Reports (last accessed on 20 February 2024).

[8] *See*, for example, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Verbatim Record, CR 2024/4, pp. 82-87, paras. 23-41 (State of Palestine - *Negm*); CR 2024/5, pp. 11-14, paras. 7-18 (South Africa – *Madonsela*) and pp. 18-19, paras. 12-18 and p. 20, paras. 22-24 (South Africa – *Stemmet*); CR 2024/6, pp. 13-17, paras. 1-16 (Belize – *Webb*); CR 2024/8, p. 31-32, paras. 21-25 (Gambia – *Jallow*); CR 2024/9, p. 24, paras. 26-28 (Iran – *Najafi*); CR 2024/10, (Kuwait – *Al-Nasser*), p. 18, para. 6; CR 2024/11, pp. 10-12, paras. 2-9 (Namibia – *Dausab*), pp. 13-17, paras. 8-25 (Namibia – *Okowa*), pp. 63-64, paras. 57-63 (Qatar – *Al-Qahtani*), and CR 2024/12, pp. 60-61, paras. 31-32 (Syria – *Al Arsan*).

[9] *Ibid*.

[10] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 195, para. 141.

[11] *Ibid*.

context of the construction of a wall in the occupied territory, an issue which is hardly comparable to what is presently occurring in the Gaza Strip.

7. Beginning on 7 October 2023 Israel launched the largest scale military assault in the OPT, particularly Gaza, which was described as among the "most destructive in recent history"[12]. Up to 23 February 2024, at least 29,782 Palestinians have been killed in Gaza and 70, 043 have been injured, which adds up to more than one hundred thousand people that have been killed, injured or are missing in Gaza alone[13]. Furthermore, there are no fully functional hospitals in Gaza.[14] Since 7 October 2023, 1.7 million people have been forcibly displaced, the majority – 1.4 million – are currently situated in Rafah governorate where humanitarian operations are based[15]. Rafah has now been recognized as the largest refugee camp in the world[16], and is currently under the announced imminent threat of a ground invasion by Israel despite the fact that there is nowhere in Gaza to move the refugees to safety.

8. The assault in Gaza has been transmitted live all over the world, and the international community has witnessed in real time the unlawful killing of civilians and the collective punishment to which they have been subjected. The German Government has been aware from the very beginning, as the public around the world, of the unprecedented events taking place and that these actions by the Israeli Government constituted serious breaches of universally accepted peremptory norms of international law.

9. The serious violations of international humanitarian law were evident from the start. The declarations made, for example, by the Secretay-General of the United Nations[17], by

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[12] "Israel's military campaign in Gaza seen as among the most destructive in recent history, experts say", *Associated Press*, 11 January 2024, available at https://apnews.com/article/israel-gaza-bombs-destruction-death-toll-scope-419488c511f83c85baea22458472a796 (last accessed 20 February 2024).

[13] Hostilities in the Gaza Strip and Israel, Flash Update 126, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-126 (last accessed 26 February 2024).

[14] *Ibid*.

[15] Hostilities in the Gaza Strip and Israel, Flash Update 116, OCHA, 12 February 2023 available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-116 (last accessed 20 February 2024).

[16] *See* BBC interview of Jan Egeland, Secretary General of the Norwegian Refugee Council, 9 February 2024, available at https://www.youtube.com/watch?v=376DNQx_HvE (last accessed 20 February 2024).

[17] Secretary General's remarks to the press on the situation in the Middle East, 9 October 2023, available at https://www.un.org/sg/en/content/sg/speeches/2023-10-09/secretary-generals-remarks-the-press-the-situation-the-middle-east (last accessed 20 February 2024).

several States[18], by the President of the International Committee of the Red Cross[19] (ICRC), and by the European Union[20] from the day of the announcement of the siege of Gaza on 9 October 2023 left no room for doubt as to the illegality of the acts that were intended to follow.

10. By 19 October 2023 Israel had already put in place a "complete siege" of Gaza[21], destroyed entire neighbourhoods and mosques[22], shelled schools[23] – including those operated by the United Nations Reliefe and Works Agency for Palestine Refugees in the Near East (UNRWA) that served as refuges for the civilian population - and Israel had perpetrated 136 atttacks on health care services[24], while conducting a wide ranging campaign of dehumanization of the Palestinian people. At this point, the statements made by Israeli officials at the highest levels of responsibility were well known to the international community, including Germany[25].

11. It was, moreover, on the basis of some of these facts, including those dated October 2023, that the Court, in the context of the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip*, came to the conclusion that there was a risk of serious and irreparable prejudice to the "the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III , and the right of South Africa to seek Israel's compliance with the latter's obligations under the Convention"[26]. The Court also highlighted that "the catastrophic

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[18] "Which countries have critices Israeli attacks on Gaza?", *Aljazeera*, 15 October 2023, available at https://www.aljazeera.com/news/2023/10/15/which-countries-have-criticised-israeli-attacks-on-gaza (last accessed 20 February 2024).

[19] Targeting civilians leads to further spirals of violence and hatred, ICRC, 11 October 2023, available at https://blogs.icrc.org/ir/en/2023/10/israel-and-the-occupied-territories-targeting-civilians-leads-to-further-spirals-of-violence-and-hatred/ (last accessed 20 February 2024).

[20] Israel/Gaza: Press remarks by High Representative Josep Borrel after informal meeting o EU Foreign Affairs Ministers, 10 October 2023, available at https://www.eeas.europa.eu/delegations/chile/israelgaza-press-remarks-high-representative-josep-borrell-after-informal-meeting-eu-foreign-affairs_en?s=192 (last accessed 20 February 2024).

[21] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel)*, *Provisional Measures*, Order of 26 January 2024, para. 52.

[22] "Israel bombed more than 200 locations in Gaza", *Aljazeera*, 10 October 2023, available at https://www.aljazeera.com/news/liveblog/2023/10/9/israel-hamas-war-live-news-israel-orders-complete-siege-of-gaza-strip (last accessed 20 February 2024).

[23] Gaza: UNRWA school sheltering displaced families hit, 17 October 2023, available at https://www.unrwa.org/newsroom/official-statements/gaza-unrwa-school-sheltering-displaced-families-hit, (last accessed 20 February 2024).

[24] Gaza: UN Experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide, 19 October 2023, available at https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity (last accessed 20 February 2024).

[25] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, *Provisional Measures*, Order of 26 January 2024, paras. 51-52.

[26] *Ibid.*, para. 54.

humanitarian situation in the Gaza Strip is at serious risk of deteriorating further before the Court renders its final judgment"[27].

12. With all the public news reports and videos of the atrocities available as they occurred, along with the declarations of international officials on the consequences of these events and even with the Order of the Court of 26 January based on a full description of what Israel was doing in Gaza, Germany cannot deny knowledge of the serious illegality of the conduct of Israel, nor can it deny that its knowlegde triggered obligations for Germany under international law to prevent genocide, to not aid and assist or be complicit in genocide ,and to ensure respect for international humanitarian law and other peremptory norms of international law.

13. Germany has provided political, financial and military support to Israel[28] fully aware at the time of authorization that the military equipments would be used in the commission of great breaches of international law by this State and in disregard of its own obligations. In particular, the military equipment provided by Germany enabling Israel to perpetrate genocidal acts and other atrocities, included supplies to the front line and warehouses, and assurances of future supplies such as ammunition, technology and diverse components necessary for the Israeli military.

14. The German Government has also cut off assistance to UNRWA. Since its establishment by the United Nations General Assembly (UNGA) in 1949 it has been the most important relief bringer to the millions of Palestinian refugees. Thus, apart from supporting a State that is in breach of many of the most fundamental and sacred norms of international law, by cutting off the funds to UNRWA Germany's decision jeopardizes any effective assistance being given to the victims of those very atrocities that Israel is commiting.

15. Germany is acutely aware of the deadly consequences for the Palestinians, particularly those at present in Gaza, that will result from the suspension of funds to UNRWA. The disappearance or the serious curtailment of the work of UNRWA will facilitate the commission

[27] *Ibid*., para. 72.
[28] Germany stands by Israel – and is seeking to bring about a de-escalation, Federal Government Website, 22 December 2023, available at https://www.bundesregierung.de/breg-en/news/germany-stands-by-israel-and-is-seeking-to-bring-about-a-de-escalation-2228294; *see* also Germany announces financial assistance to Israel: a move with potential regional implications, BNN Breaking, 27 November 2023, available at https://bnnbreaking.com/politics/germany-announces-financial-assistance-to-israel-a-move-with-potential-regional-implications/ (last accessed 20 February 2024).

and the cover-up of serious breaches of international law. This is not only in itself a breach of the obligation to prevent genocide and ensure the respect of the laws of war by others, but it points to a greater involvement in the facilitation of these unlawful activities.

16. Each and every Contracting Party to the Genocide Convention has a duty under the Convention to do everything possible to prevent the commission of genocide. As the Court itself has stated a "State's obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed"[29]. Since October 2023, there has been a recognised risk of genocide against the Palestinian people, directed first of all against the population of the Gaza Strip. Yet by sending military equipment and now defunding UNRWA which provides essential support to the civilian population, Germany is facilitating the commission of genocide and, in any case has failed in its obligation to do everything possible to prevent the commission of genocide, being both distinct bases for Germany's reponsibility.

17. Similarly, as a High Contracting Party to the Geneva Conventions of 1949, Germany is bound by these Conventions as well as by the intransgressible principles of international humanitarian law regarding any armed conflict. However, Germany has failed to fulfil its obligations, in particular its obligation to ensure respect for humanitarian law as is mandated in common Article 1 of the four Geneva Conventions of 1949, and customary rules, including the obligation not to encourage violations of international humanitarian law by parties to an armed conflict, and to exert its influence to the degree possible to stop such violations[30]. Germany's failure is all the more reprehensible with respect to Israel given that Germany has a self-proclaimed privileged relationship with it, which would enable it to usefully influence its conduct.

18. By its actions and its failures to act, Germany has failed to fulfil its obligations as a party both to numerous conventions relating to the law of armed conflict and the 1948 Genocide Convention, as well as its obligations under peremptory norms of customary international law. Each of these violations by Germany "is an unlawful act of a continuing character"[31], and

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[29] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro), Judgment, I.C.J. Reports 2007,* p. 222, para. 431.
[30] ICRC, International Humanitarian Law Databases, Customary International Humanitarian Law, Rule 144.
[31] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019,* p. 138-139, para. 177.

therefore Germany is under an obligation to immediately bring to an end its support and arms trade with Israel that may be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes; and to immediately bring to an end its assistance to Israel and cooperate to uphold international law and to bring the perpetrators of these atrocities to justice.

19. It is in the context described above that Nicaragua, aware of its erga omnes obligations, has decided to refer the matter to the Court.

II. Jurisdiction of the Court

20. The jurisdiction of the Court is based on Article 36 of its Statute. Both Nicaragua and Germany have made a declaration accepting the compulsory jurisdiction of the Court on the basis of Article 36 (2).

21. Nicaragua's declaration, as amended on 23 October 2001, contains a single reservation which provides that "Nicaragua will not accept the jurisdiction or competence of the International Court of Justice in relation to any matter or claim based on interpretations of treaties or arbitral awards that were signed and ratified or made, respectively, prior to 31 December 1901". The present dispute does not fall within the scope of this reservation.

22. Germany's declaration of 30 April 2008 recognises the Court's jurisdiction

> "over all disputes arising after the present declaration, with regards to situations or facts subsequent to this date, other than:
>
> (i) any dispute which the Parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement or which is subject to another method of peaceful settlement chosen by all the Parties.
>
> (ii) any dispute which
>
> (*a*) relates to, arises from or is connected with the deployment of armed forces abroad, involvement in such deployments or decisions thereon,
>
> or

(*b*) relates to, arises from or is connected with the use for military purposes of the territory of the Federal Republic of Germany, including its airspace, as well as maritime areas subject to German sovereign rights and jurisdiction;

(iii) any dispute in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court."

23. Those reservations have no application in the present case.

24. The other basis of jurisdiction of the Court over this dispute is provided by Article 36 (1) of the Statute and Article IX of the Genocide Convention to which Nicaragua[32] and Germany[33] have both acceded. The latter article Article IX of the Genocide Convention provides that:

"Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

25. Neither Nicaragua nor Germany has made a reservation to Article IX of this Convention.

26. In accordance with the Court's well-established case-law, the existence of a dispute is a *sina qua non* condition for the exercise of its jurisdiction. A dispute is "a disagreement on a point of law or fact, a conflict of legal views or of interests" between parties[34]. To establish the existence of a dispute, the Court "takes into account in particular any statements or documents exchanged between the parties"[35].

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[32] United Nations Circular of 13 February 1952, C.N.6.1952.TREATIES; United Nations, *Treaty Series*, vol. 120, p. 300.
[33] United Nations, *Treaty Series*, vol. 201, p. 369.
[34] *Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2,* p. 11.
[35] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia* v. *Myanmar), Preliminary Objections, Judgment, I.C.J. Reports 2022,* p. 502, para. 64. *See* also *Questions relating to the Obligation to Prosecute or Extradite (Belgium* v. *Senegal), Judgment, I.C.J. Reports 2012*, p. 443-445, paras. 50-55.

27. Nicaragua informed Germany of its claims in a note verbale[36] dated 2 February 2024 sent by the Nicaraguan Ministry of Foreign Affairs to its German counterpart, through their respective permanent missions in New York. In the Note it was stated *inter alia* that

> "Nicaragua urges the government of Germany to immediately halt the supply of arms, ammunitions, technology or components to Israel as it is plausible they are being used to facilitate or commit violations of the Genocide Convention, including but not limited to acts of genocide, attempted genocide, complicity in genocide and conspiracy to commit genocide[…]
>
> Furthermore, the recent announcement on the suspension by Germany of its funding to the UNRWA, on which the population of Gaza is critically dependent, further demonstrates that in the present scenario the Government of Germany continues to disregard its obligations and to actively facilitate violations of the rules of international law by Israel to the severe and immediate prejudice of the Palestinian people, particularly Gazans, and the international community as a whole. In particular, this act contributes to the collective punishment of the Palestinians and to the apparent objective of forcing the Palestinian population to leave the Occupied Palestinian Territories, particularly Gaza, and preventing the exercise of their right to self-determination.
>
> Nicaragua is of the opinion that these facts reveal that Germany is engaged in a gross and systematic failure to fulfill its obligations under the 1948 Genocide Convention. Therefore, it is the right and the duty of Nicaragua, as a State Party to the Genocide Convention to seek Germany's compliance with its obligations under the Convention as recognized by the Court when it concerns erga omnes partes obligations. Consequently, Nicaragua will adopt all measures it considers appropriate in accordance with international law, to guarantee respect for this fundamental international text, including recourse to the International Court of Justice.
>
> Moreover, Nicaragua also considers that Germany has disregarded and continues to disregard its obligations under international humanitarian law, including but not limited to the 1949 Geneva Conventions, its Additional Protocols and customary international law. Common Article I of the 1949 Geneva Conventions explicitly mandates the High Contracting Parties to "respect and to ensure respect for the present Convention in all circumstances", which includes the obligation to actively take steps to endeavor that other Contracting Parties respect the rules.
>
> In this vein, Nicaragua is giving notice in writing of its claims concerning violations by Germany of its obligations under the Geneva Conventions of 1949, in particular the Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 and the Additional Protocol of 1977, and generally of international humanitarian law and customary international law, including the law of occupation, in the context of its failure to prevent and facilitation of breaches of international law by Israel in its operations against Palestinians in the Occupied Palestinian Territories, particularly Gaza."

[36] Note Verbale from the Ministry of Foreign Affairs of Nicaragua to the German Federal Foreign Office, 2 February 2024 (Annex 1).

28. Germany confirmed receipt of the above communication of Nicaragua by means of a Note Verbal dated 14 February 2024 and delivered to the Permanent Mission of Nicaragua to the United Nations in New York[37].

29. Additionally, the Nicaraguan Government, through a press release, announced "its decision to hold [Germany] responsible under international law for gross and systematic violations to the Convention on the Prevention and Punishment of the Crime of Genocide, international humanitarian law and customary law, including the law of occupation in the Occupied Palestinian Territories, in particular the Gaza Strip". The press release further explained, among other things, that Nicaragua had sent a note verbale reminding Germany of its obligation to prevent genocide and that the plausibility of genocide was now beyond doubt given the Court's Order on Provisional Measures, while also urging the German Government to suspend its assistance and its support to Israel given the circumstances.[38]

30. Germany referred to Nicaragua's claims during a regular press conference of the German Federal Government on 7 February 2024. When asked by a journalist to confirm receipt of the Note Verbal sent by the Government of Nicaragua, and also how Germany intended to react to Nicaragua's steps, the Spokesperson of the Foreign Office replied: "We are aware of a press release. I cannot confirm here any further steps that you are suggesting. Beyond that, we naturally *reject* the respective contents of the press release."[39]

31. There is thus a dispute between Nicaragua and Germany concerning, but not limited to, the interpretation and application of the Genocide Convention, the Geneva Conventions of 1949 – and in particular the Convention IV relative to the Protection of Civilian Persons in Time of War – and their Additional Protocols of 1977, the principles and customary rules of international law, including intransgressible principles of international humanitarian law and peremptory norms of general international law, which involves the prohibition of racial

[37] Note from the Permanent Mission of Germany to the United Nations to the Permanent Mission of Nicaragua to the United Nations, 14 February 2024 (Annex 2).
[38] Press Release of the Government of Nicaragua, 1 February 2024 (Annex 3). Also available at https://www.el19digital.com/articulos/ver/titulo:148879-gobierno-de-nicaragua-impedir-y-detener-el-genocidio-en-palestina (last accessed 20 February 2024).
[39] *See* Statements by the German Federal Foreign Office at the Government Press Conference, 7 February 2024, available at https://www.auswaertiges-amt.de/de/newsroom/regierungspressekonferenz/2643166 (emphasis added) (last accessed 20 February 2024) (Annex 4).

discrimination and apartheid, as a result of the conduct of Germany. This arises from the fact that with full knowledge of the wrongful acts, Germany

- has failed and is failing in its obligation to prevent the genocide that the Court has found is plausibly[40] being perpetrated against the Palestinian people,

- has facilitated and is facilitating the violation of the Genocide Convention by providing aid and assistance to Israel, in particular weapons that would or could be used in the commission of genocide, and by suspending the provision of funds to UNRWA;

- has failed and is failing to ensure respect for the 1949 Geneva Conventions and Additional Protocols by providing aid and assistance to Israel in particular weapons that would or could be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes,

- has failed and is failing to fulfill its obligations under general international law by rendering assistance to Israel in its serious breaches of peremptory norms binding on all States; and

- has failed to comply with its international obligations by failing to prosecute, bring to trial and punish persons responsible for, or accused of, graves crimes of international law, including war crimes and apartheid, whether or not such persons are German nationals.

III. The Facts

A. CONTEXT

32. The Occupied Palestinian Territory, is comprised of the Gaza Strip and the West Bank, including East Jerusalem, and has been under occupation since 1967. It has been governed in an apartheid regime in which the territory has two populations under two different legal regimes based on race ("Jewishness"). A plethora of discriminatory laws in all areas of civil life have

[40] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel), Provisional Measures*, Order of 26 January 2024, para. 54.

imposed a second-class citizenship on Palestinians. The practical expression of that dual legal system – which taken as whole amounts to apartheid – is that Palestinians are denied their basic human rights such as the freedom to move and freedom of residence, denied healthcare and education, have severe limitations imposed upon their access to jobs, businesses, agriculture and land[41]. This situation has been further exacerbated in Gaza since at least 2008.

33. The Gaza Strip covers an area of 365 km^2 and consist of five governorates with a population of approximately 2.3 million people, of which half are minors, while thirty per cent is under the age of 15[42]. Since 2007 Gaza has been under an air, sea and land blockade after being declared a "hostile territory"[43] by Israel, which has imposed conditions of life under the poverty line on its entire population.

34. Despite Israeli claims that it unilaterally "disengaged" from Gaza in 2005[44], the present circumstances have confirmed that Israel has never ceased to control its airspace, territorial waters, land crossings, water, electricity and all aspects of its civilian life and infrastructure. For 18 years Israel has imposed severe restrictions on the movement of persons and goods, has engaged in the systematic impeding and undermining of all industries[45], particularly agriculture[46], and has made fishing a life-risking activity[47]. Moreover, before the present hostilities Gazans had already endured four military assaults – over the past 13 years – by Israel's massively superior military forces[48]. Given all of the above, the United Nations

[41] *Israeli Practices towards the Palestinian People and the Question of Apartheid*, Palestine and the Israeli Occupation, Issue No. 1, E/ESCWA/ECRI/2017/1 (2017), p.40.
[42] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, A/78/545, 2023, para. 1.
[43] Behind the Headlines : Israel Designates Gaza a "Hostile Territory", Ministry of Foreign Affairs of Israel, 24 September 2007, available at https://www.gov.il/en/Departments/General/behind-the-headlines-israel-designates-gaza-a-hostile-territory (last accessed 20 February 2024).
[44] Arbitrary deprivation of liberty in the occupied Palestinian territory: the Palestinian experience behind and beyond bars, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, A/HRC/53/59, 2023, para. 16.
[45] For a general overview of the situation *see*, for example, Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory, TD/B/EX(72)/2, August 2022.
[46] *Ibid*, para. 36.
[47] "Fishing and Farming in Gaza is a Deadly Business", *Inter Press Service*, 8 June 2015, available at https://www.ipsnews.net/2015/06/fishing-and-farming-in-gaza-is-a-deadly-business/ (last accessed 20 February 2024).
[48] "The deepening costs of 4 Gaza wars in 13 years, in 4 Charts", *Associated Press*, 25 August 2021, available at https://apnews.com/article/middle-east-united-nations-israel-palestinian-gaza-hamas-186d89b5fa8ae171c166f6162d6ea3da (last accessed 20 February 2024).

Secretary-General in 2021 described life in Gaza in these terms: "If there is a hell on earth, it is the lives of children in Gaza."[49]

35. The latest military assault that began in October 2023 in the OPT, particularly in Gaza, is an ongoing situation that deteriorates daily. As the Court recognized, it includes massive civilian casualties, systematic destruction of more than 70 percent of civilian infrastructure[50] - including hospitals, schools, places of worship, shelters, universities and United Nations buildings- along with a complete siege –cutting of supplies of food, water, fuel and electricity- .The United Nations reports that on 26 Februarry 2024, at least 29,782 Palestinians have been killed in Gaza and 70,043 have been injured[51]. Currently there are no fully functional hospitals in Gaza, with 12 of the 36 hospitals only partially functional[52]. Moreover, a persistent siege of hospitals in general has been reported[53]. The lack of sanitation conditions also contributes to the aggravation of the state of health in Gaza, where more than 500,000 cases of acute respiratory infections and other infectious diseases have been reported – a quarter of the population[54].

36. Back in early February 2024, the United Nations had "identified deep pockets of starvation and hunger in northern Gaza where people are believed to be on the verge of famine"[55]. On 21 February 2024, the World Food Programme (WFP) Chief announced that all

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[49] Gaza Children Living in 'Hell on Earth' Secretary-General Tells General Assembly, as Calls for End to Violence Crescendo, News of Israel-Hamas Ceasefire Breaks, 20 May 2021 available at https://press.un.org/en/2021/ga12325.doc.htm (last accessed 20 February 2024).

[50] *See*, e.g., *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel)*, *Provisional Measures*, Order of 26 January 2024, para. 46; and Widespread destruction by Israeli Defence Forces of civilian infrastructure in Gaza, UHCHR, 8 February 2024, available at https://www.ohchr.org/en/press-releases/2024/02/widespread-destruction-israeli-defence-forces-civilian-infrastructure-gaza; "The numbers that reveal the extent of the destruction in Gaza", *The Guardian*, 8 January 2024, available at https://www.theguardian.com/world/2024/jan/08/the-numbers-that-reveal-the-extent-of-the-destruction-in-gaza (last accessed 20 February 2024).

[51] Hostilities in the Gaza Strip and Israel, Flash Update 126, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-126 (last accessed 26 February 2024).

[52] Hostilities in the Gaza Strip and Israel- reported impact Day 142, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-142 (last accessed 26 February 2024).

[53] Hostilities in the Gaza Strip and Israel, Flash Update 112, OCHA, 06 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-112 (last accessed 21 February 2024).

[54] Hostilities in the Gaza Strip and Israel, Flash Update 123, OCHA, 21 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-123 (last accessed 21 February 2024).

[55] X account of Philippe Lazzarini, available at https://twitter.com/UNLazzarii/status/1755586807876485227. *See* also "Denied Access to Deliver Supplies to North Gaza for Over Two Weeks: UNRWA Chief", *The Wire*, 9

deliveries of food aid to Northern Gaza have been paused. She explained that her organization "had to make the impossible choice to pause aid distributions in Northern Gaza. There's an incredible level of desperation against the backdrop of immense humanitarian need. A famine doesn't have to happen. But if things don't change, it will."[56] In Rafah, the situation is becoming increasingly unsustainable, as people are reported to be desperate and have begun to stop aid trucks to take food[57]. The prospect of continued shelling in such a populated area in addition to a ground invasion would have irreversible consequences for the Palestinians, and indeed the world.

37. In short, all civilian life in Gaza has been rendered impossible due to the level of destruction, indiscriminate bombing from air, land and sea, and the obstruction by Israel of humanitarian aid[58].

B. GERMANY'S SERIOUS BREACHES OF ITS OBLIGATIONS, INCLUDING PEREMPTORY NORMS

38. The German Government has engaged in political, military and financial support to Israel despite its awareness that the military operation launched in the OPT, particularly Gaza, was being conducted in complete disregard of international humanitarian law, human rights law and the Genocide Convention, among other sources of international law. Germany has incurred in serious breaches of its international obligations engaging its international responsibility, including with regard to peremptory norms of general international law. Furthermore, Germany has not acted to bring to an end the wrongful acts of Israel perpetrated against the Palestinians, and has instead supported Israel by providing it with all type of aid, including military aid that would be used to commit graves crimes under international law, such as anti-tank weapons, ammunition for machine guns, detonators, propellant charges, land vechicles and technology for the development, manufacture, operation, maintenance and repair of weapons[59].

February 2024 available at https://thewire.in/world/denied-access-to-deliver-supplies-to-north-gaza-for-over-two-weeks-unrwa-chief (last accessed 20 February 2024).

[56] Hostilities in the Gaza Strip and Israel, Flash Update 123, OCHA, 21 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-123 (last accessed 21 February 2024).

[57] *Ibid.*

[58] *Ibid.*

[59] "Report on 2023: German weapons for 20 million to Israel", *ZDF heute*, 17 January 2024, available at https://www.zdf.de/nachrichten/politik/ausland/waffenlieferungen-deutschland-israel-100.html (Annex 5) and "A

39. Germany, as the international community itself, was aware of the violations being committed by Isarel from the moment of their first occurrence shortly after 7 October 2024. News reports from the beginning of the military assault in Gaza were widely published such as Israeli officials's statements describing Palestinians as "human animals"[60] and the public announcement of a "complete siege" of Gaza where there would be "no electricity, no food, no fuel"[61]. Moreover, Israel decided to cease the water supply and announced that no electricity, fuel, or water supply would be resumed until the hostages were released[62].

40. The announcement by Israel at the start of its military assault that it would target the civilian population, a clear act of collective punishment, was instantly condemned by the United Nations, governments and civil society. In that sense, the Secretary-General of the United Nations expressed his distress at "today's announcement that Israel w[ould] initiate a complete siege of the Gaza Strip, nothing allowed in – no electricity, food, or fuel'' and reminded Israel that "military operations must be conducted in strict accordance with international humanitarian law". Moreover, he also expressed alarm at reports of "over 500 palestinians, incuding women and children, killed in Gaza and over 3000 injured". Additionaly, he reported that – after less than 48 hours of the start of Israel's military assault – Israeli missiles had already struck health facilities, residential towers, a mosque and two UNRWA schools sheltering refugees[63].

41. From the first days of the Israeli assault, the European Union's High Representative for Foreign Affairs and Security Policy referred to this situation stating that: "As I said, some of their actions, and the United Nations have already said that, like cutting water, cutting electricity and food to a mass of civilian people, is against international law. So yes, there are

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request for ammunition from Israel plunges the German government into a dilemma", *NZZ*, 17 January 2024, available at https://www.nzz.ch/international/munitionsanfrage-aus-israel-stuerzt-deutsche-regierung-in-ein-dilemma-ld.1774619 (Annex 6). *See* also Written questions to the Federal Government in December 2023, Question no. 12/531, 9 January 2024, available at https://www.bmwk.de/Redaktion/DE/Parlamentarische-Anfragen/2023/12/12-531.pdf?__blob=publicationFile&v=8 (Annex 7).

[60] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel), Provisional Measures*, Order of 26 January 2024, para. 52.

[61] *Ibid*.

[62] "The Middle East including the Palestinian Question: Consultations on the Situation in Gaza and Israel", *Security Council Report*, 12 October 2023, available at https://www.securitycouncilreport.org/whatsinblue/2023/10/the-middle-east-including-the-palestinian-question-consultations-on-the-situation-in-gaza-and-israel.php (last accessed 20 February 2024).

[63] Middle East Crisis: Guterres appeals for an end to 'vicious cycle of bloodshed, hatred and polarization', 9 October 2023, available at https://news.un.org/en/story/2023/10/1142082 (last accessed 20 February 2024).

some actions that are not in accordance with international law."[64] The President of the ICRC also immediately condemned the announcement of the illegal blockade[65]. Even at this early stage, it is clear from the chain of events that Germany could hardly not have been aware of the serious violations of international humanitarian law being committed by Israel, including in what is called "one of the largest air strikes ever" in Gaza, all the more because Israel was flagrantly declaring them[66].

42. On 10 October, the World Health Organization called for the establishment of a humanitarian corridor, adding that "hospitals cannot run without fuel, without electricity". On 11 October, Gaza's power plant ran out of fuel, and the United Nations Office for the coordination of humanitarian affairs (OCHA), warned that there was "a severe shortage of drinking water affecting more than 650,000 people". This was followed by an 11 October statement of the Secretary-General remarking that "[c]rucial life-saving supplies–including fuel, food and water–must be allowed into Gaza".[67]

43. These critical events led to an emergency meeting of the Security Council on 13 October in which the Secretary-General called for "immediate humanitarian access throughout Gaza" and reminded that "[e]ven wars have rules [and that] [i]nternational humanitarian law and human rights law must be respected and upheld". Equally important, the Secretary-General called on the parties, and specially "those with influence over them [to] do everything possible to achieve these steps"[68].

44. While the United Nations and other international organizations were deploring Israeli illegal acts, the German Chancellor on 12 October 2023 reiterated Germany's full support for

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[64] Israel/Gaza: Press remarks by High Representative Josep Borrell after informal meeting of EU Foreign Affairs Ministers, 10 October 2023, available at https://www.eeas.europa.eu/delegations/chile/israelgaza-press-remarks-high-representative-josep-borrell-after-informal-meeting-eu-foreign-affairs_en?s=192 (last accessed 20 February 2024).

[65] Targeting civilians leads to further spirals of violence and hatred, ICRC, 11 October 2023, available at https://blogs.icrc.org/ir/en/2023/10/israel-and-the-occupied-territories-targeting-civilians-leads-to-further-spirals-of-violence-and-hatred/ (last accessed 20 February 2024).

[66] "The Middle East including the Palestinian Question: Consultations on the Situation in Gaza and Israel", *Security Council Report*, 12 October 2023, available at https://www.securitycouncilreport.org/whatsinblue/2023/10/the-middle-east-including-the-palestinian-question-consultations-on-the-situation-in-gaza-and-israel.php (last accessed 20 February 2024).

[67] *Ibid.*

[68] Secretary-General's remarks to the press on the situation in the Middle East, 13 October 2023, available at https://www.un.org/sg/en/content/sg/speeches/2023-10-13/secretary-generals-remarks-the-press-the-situation-the-middle-east (last accessed 20 February 2024).

Israel's military campaign, which was already patently indiscriminate. In an address to the German *Bundestag* he stated that "[a]t this moment, there [was] only one place for Germany: the place at the side of Israel. This is what we mean when we say that Israel's security is a German raison d'État".[69] In the same speech the Chancellor announced that the "entire development co-operation with the Palestinian territories [was] under scrutiny" and that "[u]ntil this review is completed, [Germany] will not be able to provide any new development co-operation funds"[70].

45. By the time the Chancellor gave his speech in Parliament, Germany had already authorized the handing over of two Heron Drones, flack jackets, medical material and treatment for injured Israelis in German Hospitals, while cutting much needed funds to the Palestinians[71]. The two Heron Drones – which were already deployed in Israel – had been instantly put to use against the Palestinians. The capacity of these drones to cause widespread destruction[72] can be seen in an 11 October video posted by the Israeli Defense Forces in their official X Platform account (formerly Twitter)[73]. The drones are described by the manufacturer as capable of

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[69] Government statement by Federal Chancellor Olaf Scholz on the situation in Israel to the German Bundestag, 12 October 2023, available at https://www.bundesregierung.de/breg-de/service/newsletter-und-abos/bulletin/regierungserklaerung-von-bundeskanzler-olaf-scholz-2230150 (Annex 8). *See* also "Scholz: Germany's 'only place' now is at Israel's side", *Deutsche Welle*, 12 October 2023, available at https://www.dw.com/en/scholz-germanys-only-place-now-is-at-israels-side/a-67072963 (last accessed 20 February 2024).

[70] *Ibid.*

[71] "Germany says it is reviewing Israel request for warship ammunition", *Middle East Monitor*, 12 October 2023, available at https://www.middleeastmonitor.com/20231012-germany-says-it-is-reviewing-israel-request-for-warship-ammunition/. *See* also "Germany clears Israel's use of two Heron TP combat drones, source says", *Reuters*, 11 October 2023 available at https://www.reuters.com/world/germany-clears-use-two-heron-tp-combat-drones-by-israel-spiegel-2023-10-11/ (last accessed 20 February 2024).

[72] To date, Israel has widely used drones to indiscriminately and desproportionately bomb the Gaza Strip, including civilians and protected buildings. For example, on 10 January 2024, an ambulance of the Red Crescent Society was struck by a drone killing six people, including the two wounded people being attended by the medical personnel. More recently, on 6 February 2024 a UNRWA food convoy waiting to move into northern Gaza was hit by Israel's Navy as confirmed by the Secretary General of the United Nations who stated "our humanitarian operations continue to face denials of access, delays, impediments, and multiple dangers– including live fire. One of our convoys was damaged by Israeli naval artillery earlier this week". *See* "Israeli drone killed 6 in ambulance: Palestine Red Crescent Society", *Deccan Herald*, 10 January 2024, available at https://www.deccanherald.com/world/israeli-drone-killed-6-in-ambulance-palestine-red-crescent-society-2844053; "A food convoy waiting to move into northern Gaza was hit by Israeli naval gunfire", 6 February 2024, available at https://palestine.un.org/en/259747-food-convoy-waiting-move-northern-gaza-was-hit-israeli-naval-gunfire; Secretary-General's Press Conference on 2024 Priorities, 8 February 2024, available at https://www.un.org/sg/en/content/sg/press-encounter/2024-02-08/secretary-generals-press-conference-2024-priorities (last accessed 20 February 2024).

[73] Footage of the overnight strikes with the drones as release by the IDF on 11 October 2023, in X account, available at https://twitter.com/IAFsite/status/1712330858848268368. *See also* "Israel Air Force seeks 'german aproval' to fight Hamas with its deadly Heron Drones; here's why", *The Eurasian Times*, 12 October 2023, available at https://www.eurasiantimes.com/israel-air-force-seeks-german-approval-to-fight-hamas-with-its-deadly-heron-drones-heres-why/ (last accessed 20 February 2024).

"perform[ing] a variety of strategic missions, including intelligence gathering, surveillance, target acquisition and reconnaissance, using various payloads, with a high level of reliability"[74].

46. The German Minister of Foreign Affairs reiterated that "we as the Federal Government stand firmly by the side of our Israeli friends. Israel's security is a German raison d'État. With this understanding, I have offered Israel all our support in every area."[75] Germany's firm stance in defence of the illegal Israeli actions was also confirmed by the Deputy Spokesperson of the Federal Government on 11 October 2023, who was confronted during a press conference with the position of the United Nations and of the European Union's High Representative for Foreign Affairs and Security Policy on the illegality of the complete siege of Gaza and whether Germany shared this opinion. Her response was that "for us, at this moment when Israel has been attacked by Hamas in this brutal way, solidarity with Israel is paramount and we emphasize that Israel has the right to take action against this attack and to defend itsel"[76]. Media reports of that day had warned that the retaliatory aerial attacks with fighter jets had already reduced to rubble many parts of the enclave, with residentials, administrative buildings, mosques, and universities already being bombed, yet Germany gave no indication that Israel's total siege of Gaza was not consistent with international law[77].

47. It was also confirmed in early October 2023 by the German Defence Minister that Israel had also made a request for "ammunition for [its] warships" and that Germany would proceed to discuss "the details of this request with the Israelis"[78]. According to the Defence

[74] Heron TP Male Unmanned Aerial System, available at https://www.iai.co.il/p/heron-tp. (last accessed 20 February 2024).
[75] Speech by the Federal Minister for Foreign Affairs, Annalena Baerbock, at the beginning of the questioning of the Federal Government before the German Bundestag, 11 October 2023, available at https://www.bundesregierung.de/breg-de/service/newsletter-und-abos/bulletin/rede-der-bundesministerin-des-auswaertigen-annalena-baerbock--2229732 (Annex 10).
[76] Government Press Conference, 11 October 2023, available at https://www.bundesregierung.de/breg-de/aktuelles/regierungspressekonferenz-vom-11-oktober-2023-2229600 (last accessed 20 February 2024) (Annex 11)
[77] "Israel Air Force seeks 'german aproval' to fight Hamas with its deadly Heron Drones; here's why", *The Eurasian Times*, 12 October 2023, available at https://www.eurasiantimes.com/israel-air-force-seeks-german-approval-to-fight-hamas-with-its-deadly-heron-drones-heres-why/ (last accessed 20 February 2024).
[78] "Germany says it is reviewing Israel request for warship ammunition", *Middle East Monitor*, 12 October 2023, available at https://www.middleeastmonitor.com/20231012-germany-says-it-is-reviewing-israel-request-for-warship-ammunition/. *See* also "Germany's unique relationship with Israel", *Deutsche Welle*, 15 October 2023, available at https://www.dw.com/en/israel-and-germanys-reason-of-state-its-complicated/a-67094861 (last accessed 20 February 2024).

Minister "[t]he Israelis [were] waging a fight to defend their existence there"[79]. Due notice should be taken of the fact that the day before this announcement was made, the Israeli Navy had "struck central areas of the Gaza Strip along the Mediterranean coast and residential areas of the city of Khan Yunis"[80].

48. On 17 October 2023 it was already estimaded that 1200 Palestinian children had already died in 10 days of hostilities, the equivalent of killing of one Palestininan child every 15 minutes[81]. Only two days later, the unlawful lethal force unleashed by Isarel against Palestinians changed the discourse of the international community from one concerned about violations of humanitarian law, to one warning of the risk of genocide.

49. On 19 October, nine United Nations Special Rapporteurs very publicly and explicitly declared: "We are sounding the alarm: There is an ongoing campaign by Israel resulting in crimes against humanity in Gaza. Considering statements made by Israeli political leaders and their allies, accompanied by military action in Gaza and escalation of arrests and killing in the West Bank, there is also a risk of genocide against the Palestinian People."[82] This warning came just twelve days into the conflict. The experts were putting the world on notice of its moral and legal failure to take action to prevent the genocide unfolding in the OTP. However, Germany continued to extend its support to Israel.

50. In addition, on 27 October the United Nations Committee on the Elimination of Racial Discrimination observed that it was "[h]ighly concerned about the sharp increase in racist hate

[79] "Germany says it is reviewing Israel request for warship ammunition", *Middle East Monitor*, 12 October 2023, available at https://www.middleeastmonitor.com/20231012-germany-says-it-is-reviewing-israel-request-for-warship-ammunition/ (last accessed 20 February 2024).
[80] "Israeli Navy strikes central, coastal areas of Gaza Strip", *AA News*, 10 October 2023, available at https://www.aa.com.tr/en/middle-east/israeli-navy-strikes-central-coastal-areas-of-gaza-strip/3013552 (last accessed 20 February 2024).
[81] "Hundres of Palestinians men, women, and children killed at Al-Ahli Hospital", *Defense for Children International-Palestine*, 18 October 2023, available at https://www.dci-palestine.org/hundreds_of_palestinian_men_women_and_children_killed_at_al_ahli_hospital (last accessed 20 February 2024).
[82] Gaza: UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide, 19 October 2023 available at https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity (last accessed 20 February 2024).

speech and dehumanization directed at the Palestinians since 7 October"[83]; further confirming the risk of genocide. Germany was unmoved.

51. By early November 2023, it was widely reported that the German defense export approvals to Israel had risen nearly tenfold in comparison to the previous year[84] reaching 303 million euros worth of defense equipment. Moreover, 185 out of 218 individual export permits were granted as a priority *after* the 7 October 2023 events in Israel, including permits for air defense systems and communications equipment[85]. On 12 November 2023, the German Chancellor publicly stated that he opposed a much needed ceasefire, to that effect he stated: "I don't think the calls for an immediate ceasefire or long pause — which would amount to the same thing — are right"[86]. Four days later, on 16 November 2023, 37 Special Rapporteurs, Independent Experts and members of Working Groups of the Special Procedures of the United Nations Human Rights Council raised the alarm over ''discernible genocidal and deshumanising rhetoric coming from senior Israeli government officials".[87]

52. The public calls to stop the massacre were numerous and have continued. For example, on 6 December 2023 the United Nations Secretary General addressed the Security Council warning that "Nowhere is safe in Gaza…amid constant bombardment by the Israeli Defense Forces, and without shelter or the essentials to survive…the situation is fast deteriorating into

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[83] United Nations Comittee on the Elimination of Racial Discrimination, Statement 5 (2023), available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FSWA%2F9904&Lang=en (last accessed 20 February 2024). *See* also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel), Provisional Measures*, Order of 26 January 2024, para. 53.

[84] In addition, in 2022 the Stockholm International Peace Research Institute concluded in a detailed investigation that Germany had exported more than 1000 diesel tank engines since 2013, these were used in the israeli made Merkava-4 tanks and in Namer armoured personnel carriers, which are also currently being used in Gaza. *See* "Europe 'aiding and assisting' Israel's war in Gaza with key weapons", *Euronews*, 3 November 2023, available at https://www.euronews.com/2023/11/03/europe-aiding-and-assisting-israels-war-in-gaza-with-vital-weapons (last accessed 20 February 2024)

[85] "German military exports to Israel up nearly 10-fold as Berlin fast-tracks permits", *Reuters*, 8 November 2023 available at https://www.reuters.com/world/europe/german-military-exports-israel-up-nearly-10-fold-berlin-fast-tracks-permits-2023-11-08/ (last accessed 20 February 2024).

[86] "Germany's Scholz spurns calls for Gaza ceasefire; UK defense chief backs IDF efforts", *The Times of Israel*, 12 November 2023, available at https://www.timesofisrael.com/germanys-scholz-spurns-calls-for-gaza-ceasefire-uk-defense-chief-defends-idf-efforts/ (last accessed 20 February 2024).

[87] Gaza: UN experts call on international community to prevent genocide against the Palestinian people, 16 November 2023 available at https://reliefweb.int/report/occupied-palestinian-territory/gaza-un-experts-call-international-community-prevent-genocide-against-palestinian-people (last accessed 20 February 2024). *See* also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel), Provisional Measures*, Order of 26 January 2024, para. 53.

a catastrophe with potentially irreversible implications for Palestinians as a whole"[88]. He reiterated this assessment one month later on 5 January 2024 observing that "[s]adly, devastating levels of death and destruction continue"[89]. With equal concern, the Commissioner General of UNRWA, in his report on 17 January 2024 following his fourth to Gaza, stated: "Every time I visit Gaza, I witness how people have sunk further into despair, with the struggle for survival consuming every hour."[90]

53. Nevertheless, Germany's support to Israel continued[91]. By the end of 2023, the German Government had granted military exports to Israel in the amount of 326,505,156 euros.[92] On January 2024, German media reported that Israel had made a request for tank shells, especifically 10,000 120-millimeter Rheinmetall precision rounds.[93] *Der Spiegel* reported that Germany had agreed to deliver the request from its own stocks in order to be able to comply with the "urgency".[94] According to information made available by the German Government, export licences granted between January 2024 and 15 February 2024 concerned military equipment worth 9,003,676 euros.[95]

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[88] Letter from the Secretary-General addressed to the President of the Security Council, S/2023/962, 6 December 2023; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel)*, *Provisional Measures*, Order of 26 January 2024, para. 67.

[89] UN Document S/2024/26, 8 January 2024 ; *see* also ICJ, order, 26 January 2024, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, *Rep. 2024*, para. 68.

[90] The Gaza Strip: the struggle for daily survival amid death, exhaustion and despair, 17 January 2024, available at https://www.unrwa.org/newsroom/official-statements/gaza-strip-struggle-daily-survival-amid-death-exhaustion-and-despair (last accessed 20 February 2024).

[91] Additionally, German companies are reported to be profiting from the conflict and working closely with Israeli companies such as Elbit Systems, to develop automatic artillery systems and combat drones, which necessarily involves public funding given that the arms industry mostly depends on national defense decisions and funding made available by the goverment. Elbit Systems is one of the three largest defence companies in Israel and plays a key role in the ongoing operation. *See* "German arms exports, including to Europe, Israel and Ukraine, at record levels", *World Scialist Web Site*, 8 January 2024, available at https://www.wsws.org/en/articles/2024/01/09/ba50-j09.html (last accessed 20 February 2024).

[92] *See* Annex 7.

[93] "Germany likely to send tank ammo to Israel", *The Defense Post*, 18 January 2024, available at https://www.thedefensepost.com/2024/01/18/germany-tank-ammo-israel/ (last accessed 20 February 2024).

[94] "German government examines delivery of tank ammunition to Israel", *Der Spiegel*, 16 January 2024, available at https://www.spiegel.de/politik/deutschland/gaza-krieg-bundesregierung-prueft-lieferung-von-panzermunition-an-israel-a-0f0ce68d-7752-4b8e-81eb-9bd3a5692eeb (Annex 12); "Germany likely to send tank ammo to Israel", *The Defense Post*, 18 January 2024, available at https://www.thedefensepost.com/2024/01/18/germany-tank-ammo-israel/ (last accessed 20 February 2024).

[95] German *Bundestag*, shorthand report, 153rd meeting, 21 February 2024, p. 19573, available at https://dserver.bundestag.de/btp/20/20153.pdf (Annex 13).

54. Lately, various European Union and national authorities denounced the incompatibility of arms exports to Israel with international law. As the High Representative of the European Union, Josep Borrell, has stated

> "Look, I do not pretend to be in charge of the foreign policy of the United States, I have enough with the foreign policy of the European Union. But let's be logical: how many times have you heard the most prominent leaders and the foreign ministers around the world saying, 'Too many people are being killed'? President [of the United States, Joe] Biden said [that] this is too much on the top, it is not proportional. Well, if you believe that too many people are being killed, maybe you should provide less arms in order to prevent so many people [from] being killed. Isn't it logical? In 2006, during the war against Lebanon, the United States already took this decision. They already took the decision to pause the supply of arms to Israel, because Israel did not want to stop the war. Exactly the same thing that happens today. Everyone goes to Tel-Aviv, begging: 'Please, do not do that, protect civilians, do not kill so many.'
>
> […]
>
> So, I do not know. Every Member States is an owner of its foreign policy. But it is a little bit contradictory to continue saying that there are too many people being killed: 'Too many people being killed. Please take care of people. Please do not kill so many'. Stop saying 'please' and do something."[96]

55. In a case dealing with the export of spare parts for the F-35 Fighter Planes by the State of the Netherlands to Israel, the Court of Appeal of The Hague concluded that there were "many indications that Israel has violated the humanitarian laws of war" and "order[ed] the State [of Netherlands] to cease all (actual) export and transit of F-35 parts with final destination Israel within 7 days after service of this judgment".[97].

56. From all of the above, it is clear that Germany has provided and continues to provide political, financial and military support to Israel[98] with full knowledge of the ongoing plausible commission by Israel of serious breaches of international law facilitated by that support, and in disregard of Germany's own obligations. In particular, Germany is supplying Israel with military equipment, components and technology fully aware that it would be used against

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[96] European Union External Action Service, Informal Foreign Affairs Council (Development): Remarks by High Representative Josep Borrell at the press conference, 12 February 2024, available at https://www.eeas.europa.eu/eeas/informal-foreign-affairs-council-development-remarks-high-representative-josep-borrell-press_en (last accessed 26 February 2024).

[97] Netherlands, Court of Appeal The Hague, 12 February 2024, ECLI:NL:GHDHA:2024:191, para. 5.16 and 6. Decision. (Annex 14)

[98] Germany stands by Israel – and is seeking to bring about a de-escalation, Federal Government Website, 22 December 2023 available at https://www.bundesregierung.de/breg-en/news/germany-stands-by-israel-and-is-seeking-to-bring-about-a-de-escalation-2228294 (last accessed 20 February 2024).

Palestinians in Gaza and used to commit grave crimes under international law in serious breach of fundamental rules of international law.

C. GERMANY'S FURTHER SUPPORT TO THE COLLECTIVE PUNISHMENT OF THE PALESTINIANS

57. Germany's political, military and financial support to Israel – while this State was plausibly and in public view committing genocide – is in stark contrast to its policy of halting its bilateral financial assistance to the Palestinians without further consideration early in the conflict[99]; but most notably, and with dire consequences, in respect of UNRWA, the international agency in charge of delivering aid to the OTP. As will be seen, Germany's conduct has further increased the vulnerability of the Palestinian population, particularly Gazans, and contributed to the very present risk of irreparable prejudice.

58. On 27 January 2024, Germany informed UNRWA that it was suspending its funding to the agency because of allegations made by Israel in relation to the alleged involvement of twelve staff members in the 7 October events[100]. This was later publicly confirmed by the German Foreign Office who stressed that "until the end of the investigation, Germany, in coordination with other donor countries, will temporarily not approve any new funds for UNRWA in Gaza" and it further explained that "in any case, no new commitments are currently pending"[101]. Disturbingly, the actions taken by Germany, took place the very day after the Court had issued its Order on Provisional Measures ordering Israel to "take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip"[102]. Germany's decision inevitably weakened the position of UNRWA and of aid deliveries to Gaza, and in effect, gave a green light for Israel to continue with tis unlawful actions against Gaza and the OPT.

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[99] *See* para.44 above and footnote 70.
[100] UNRWA's lifesaving aid may end due to funding suspension, 27 January 2024, available at https://www.unrwa.org/newsroom/official-statements/unrwa%E2%80%99s-lifesaving-aid-may-end-due-funding-suspension (last accessed 20 February 2024).
[101] Joint statement on UNRWA by the Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development, 27 January 2024 available at https://www.auswaertiges-amt.de/en/newsroom/news/-/2641762 (last accessed 20 February 2024).
[102] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa* v. *Israel), Provisional Measures*, Order of 26 January 2024, para. 86 (4).

59. Israel did not provide[103] and has not provided[104] to UNRWA, or the international community, any evidence to substantiate its allegations, and the purported intelligence has not been independently verified and has even been assessed as having a level of "low confidence"[105]. Despite not being provided with any evidence, UNRWA announced that it had immediately terminated the contracts of the accused[106], it clarified that it had done so in the interest of the agency and not as an admission of wrongdoing[107], which could only be concluded through an investigation. Furthermore, UNRWA's Commissioner activated an administrative probe under the Office of Internal Oversight Services (OIOS) and also accepted an independent panel led by former French Foreign Minister Catherine Colonna[108]. In that sense, UNRWA's Commissioner urged Israel to cooperate with the OIOS investigation to independently established the truth in a report expected sometime by the end of April 2024[109]. The employees whose contracts were terminated represent 0.01 percent of the roughly thirteen thousand employees in Gaza, nevertheless, in less than 24 hours of the announcement of Israel's

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[103] Why donors should not suspend aid to UNRWA, UNRWA, 8 February 2024, available at https://www.unrwa.org/newsroom/official-statements/why-donors-should-not-suspend-aid-unrwa (last accessed 20 February 2024); "US intelligence casts doubt on Israeli claims of UNRWA-Hamas links, report says", *The Guardian*, 22 February 2024, available at https://www.theguardian.com/world/2024/feb/22/us-intelligence-unrwa-hamas (last accessed 25 February 2024).

[104] "UNRWA Chief tells Haaretz: We take Israel's claims of Hamas infiltration seriously, but yet to see evidence against Gaza empoyees", *Haaretz*, 20 February 2024, available at https://www.haaretz.com/israel-news/2024-02-20/ty-article-magazine/.premium/unrwa-chief-waiting-for-israels-evidence-on-hamas-infiltration-of-gaza-employees/0000018d-c5fc-db3b-a9cf-cdfdfd5a0000 (last accessed 20 February 2024)

[105] "US intelligence casts doubt on Israeli claims of UNRWA-Hamas links, report says", *The Guardian*, 22 February 2024, available at https://www.theguardian.com/world/2024/feb/22/us-intelligence-unrwa-hamas (last accessed 25 February 2024). *See* also "'Unproven allegations': U.K.'s Channel 4 slams Israel's charge against UNRWA", *Haaretz*, 7 February 2024, available at https://www.haaretz.com/israel-news/2024-02-07/ty-article/unproven-allegations-u-k-channel-4-slams-israels-charge-against-unrwa/0000018d-837c-d636-adef-cffe76790000 (last accessed 20 February 2024); "Israel's evidence of UNRWA Hamas allegations examined", *Channel 4*, 5 February 2024, available at https://www.channel4.com/news/israels-evidence-of-unrwa-hamas-allegations-examined (last accessed 20 February 2024); "Report finds 'no evidence' in key dossier to support Israel's UNRWA allegations", *Truthout*, 6 February 2024, available at https://truthout.org/articles/report-finds-no-evidence-in-key-dossier-to-support-israels-unrwa-allegations/ (last accessed 20 February 2024).

[106] UNRWA further explained that two of the accussed were confirmed dead, one had yet to be identified and another was not a UN employee.

[107] "To protect the Agency's ability to deliver humanitarian assistance, I have taken the decision to immediately terminate the contracts of these staff members and launch an investigation in order to establish the truth without delay. Any UNRWA employee who was involved in acts of terror will be held accountable, including through criminal prosecution." *See* Serious allegations against UNRWA staff in the Gaza Strip, UNRWA, 26 January 2024, available at https://www.unrwa.org/newsroom/official-statements/serious-allegations-against-unrwa-staff-gaza-strip (last accessed 20 February 2024).

[108] Why donors should not suspend aid to UNRWA, UNRWA, 8 February 2024, available at https://www.unrwa.org/newsroom/official-statements/why-donors-should-not-suspend-aid-unrwa (last accessed 20 February 2024).

[109] Letter from the Commission-General to the President of the UN General Assembly, UNRWA, 22 February 2024, available at https://www.unrwa.org/newsroom/official-statements/letter-commissioner-general-president-general-assembly (last accessed 25 February 2024).

allegations, Germany decided to cut funding to UNRWA, while continuing the flow of all type of support to Israel, particularly military.

60. UNRWA is the primary humanitarian agency in Gaza, with over two million people depending on it for their sheer survival[110] and its work cannot be replaced by any other agency at this time. This much has also been clearly emphasized by the Secretary-General of the United Nations:

> "First of all, UNRWA does not only work in Gaza, UNRWA works in Jordan, in Lebanon, in Syria, in the West Bank, where the school system for the Palestinians is guaranteed by UNRWA, where the health system is guaranteed by UNRWA, where vital conditions are guaranteed by UNRWA. I don't see any other organization that would be able to do all these, in all these countries, all of a sudden. But in particular, in Gaza, *the backbone of the humanitarian distribution in Gaza by the United Nations are the 3,000 Gazan UNRWA staff members* that are dedicated to the emergency response. Obviously, there are other staff members that were teaching or doing other functions that today are not operational, but there are 3,000 Gaza staff members that are the backbone of the humanitarian distribution inside Gaza. No other organization has a meaningful presence inside Gaza and nothing compared with this situation. *So there is no other organization that would be able now to replace Gaza, occupying that space.*"[111]

61. UNRWA is funded almost entirely by contributions that though voluntary in origin have customarily been relied upon by the Organization for fulfilling its mandate. The only exception is a very limited subsidy from the Regular Budget of the United Nations, which is used exclusively for administrative costs. In other words, the work of UNRWA can not be carried out if donors, such as Germany suspend their contributions because these donations represent 95 per cent of the total budget. In fact, Germany is the second largest donor only after the United States.[112]

62. UNRWA is unique among United Nations agencies, as it delivers its services directly to Palestinians. These services include emergency assistance and primary health care in general, pre and post natal care, infant care, inmunizations, diagnostic and laboratory services, management of chronic diseases, outpatient and inpatient care, specialist services (cardiology,

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[110] UNRWA's lifesaving aid may end due to funding suspension, UNRWA, 27 January 2024 available at https://www.unrwa.org/newsroom/official-statements/unrwa%E2%80%99s-lifesaving-aid-may-end-due-funding-suspension (last accessed 20 February 2024).

[111] Press Conference by Secretary-General Antonio Guterres at United Nations Headquarters, 8 February 2024, available at https://press.un.org/en/2024/sgsm22130.doc.htm (last accessed 20 February 2024).

[112] UNRWA website, https://www.unrwa.org/our-partners/government-partners (last accessed 20 February 2024).

ophthalmology, obstetricts, gynaecology, etc), rehabilitation and physiotherapy, among others. In other words, if the agency were to halt its operations Gazans would be left without emergency services in the middle of a military operation, an operation that does not distinguish civilians or protected places. That would be tantamount to a death penalty for Gazans. The Director of UNRWA in Gaza has said as much: "It's difficult to imagine that Gazans will survive this crisis without UNRWA."[113]

63. Additionally, UNRWA through its Environmental Health programme controls the quality of drinking water, provides sanitation and carries out vector and rodent control in refugee camps. Of no less importance are the community mental health services por Palestinians who have suffered the trauma of displacements and repeated episodes of violence against them. This aspect is particularly important for children, including children with mental disabilities that are specially benefitted by this programme. Under less dire circumstances, UNRWA also provides education services that encompass primary and vocational education to children and young people in order to enable them to survive. This also covers the area of microfinance and entrepreneurial programmes in an already asphyxiated economy. In short, there is no aspect of Palestinian life in which UNRWA is not involved and needed.

64. On 1 February 2024, UNRWA announced that due to the cut off of its funding it will be "forced to shut down [their] operations by end of February not only in Gaza but also across the region"[114]. This would mean that in Gaza alone 2.2 million people who are already at imminent risk of famine would be brought to the point of no return and death due to starvation would soon follow in massive numbers; not only for the people already at imminent risk of famine but also for the remaining 0.5 million people that are currently at phase 5 (catastrophic levels) which in practical terms refers to a extreme lack of food, starvation as well as exhaustion and coping capacities; and the 1.17 million people at phase 4 (emergency levels)[115]. These numbers include 1 million children, of which 17,000 are unaccompanied or have been separated

[113] The Gaza Strip: Humanitarian crisis deepens at a time funding suspensions put UNRWA aid operations in peril, UNRWA, 1 February 2024, available at https://www.unrwa.org/newsroom/news-releases/gaza-strip-humanitarian-crisis-deepens-time-funding-suspensions-put-unrwa-aid (last accessed 20 February 2024).
[114] The Gaza Strip: Humanitarian crisis deepens at a time funding suspensions put UNRWA aid operations in peril, UNRWA, 1 February 2024 available at https://www.unrwa.org/newsroom/news-releases/gaza-strip-humanitarian-crisis-deepens-time-funding-suspensions-put-unrwa-aid (last accessed 20 February 2024).
[115] Hostilities in the Gaza Strip and Israel- reported impact Day 142, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-142 (last accessed 26 February 2024).

from parents and depend completely on the aid provided by UNRWA personnel not only at the physical level but also at the emotional and mental level[116]. This risk has been deliberately created and maintained by Israel, but further deaths are still avoidable if action is taken now.

65. On 22 February 2024, UNRWA's Commissioner General informed the President of the General Assembly (PGA) that "the Agency ha[d] reached breaking point, with Israel's repeated calls to dismantle UNRWA and the freezing of funding by donors at a time of unprecedented humanitarian needs in Gaza"; and therefore "the Agency's ability to fulfil the mandate given through General Assembly resolution 302 is now seriously threatened"[117].

66. Germany is perfectly aware of the deadly impact that its decision to cut funding to UNRWA means in practical terms, which amounts to the collective punishment of millions of Palestinians, in particular Gazans as they will be condemned to famine, starvation and disease. With its conduct, Germany is not only failing to uphold humanitarian law and to prevent genocide, but is actively contributing to violations of those fundamental rules; and to preserving the apartheid system and indiscrimination against the Palestinian people and their right to self determination.

IV. The Remedies Sought

67. While reserving its right to revise, supplement or amend the present application, Nicaragua respectfully requests the Court to adjudge and declare that Germany:

(1) has breached and continues to breach its obligations under the Genocide Convention in particular the obligations provided in Article I by, with full knowledge of the situation, failing to prevent the ongoing genocide against the Palestinian People in particular Gazans;

(2) has breached and continues to breach its obligations under the Genocide Convention in particular the obligations provided in Article I by not only failing to prevent the ongoing genocide but by providing aid, including military equipment, to Israel that would be used in the commission of genocide, by Israel, and by withdrawing the financial assistance to the victims provided by UNRWA;

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[116] *Ibid.*

[117] Letter from the Commission-General to the President of the UN General Assembly, UNRWA, 22 February 2024, available at https://www.unrwa.org/newsroom/official-statements/letter-commissioner-general-president-general-assembly (last accessed 25 February 2024).

(3) has breached and continues to breach its obligations under Article I of the Fourth Geneva Convention and intransgressible principles of humanitarian law, not only by failing to ensure that the requirements of that Convention are complied with, but also by providing aid, including miltary equipement, that would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes, in violation of its duties under 1949 Geneva Conventions and customary international law and by withdrawing Germany's financial assistance to UNRWA;

(4) has breached and continues to breach its obligations under international humanitarian law not only by failing to ensure that these rules of elementary consideration of humanity are respected by Israel, but also by providing aid and assistance to Israel, and withdrawing Germany's financial assistance to UNRWA;

(5) has breached and continues to breach its conventional and customary law obligations, including the obligation to facilitate and cooperate in bringing about the Palestinian people's right to self-determination, by providing aid and particularly military equipment to Israel that is used to deny this right of self determination and moreover helps to maintain and impose an apartheid regime;

(6) has breached and continues to breach international law by refusing to prosecute, bring to trial and punish persons responsible for, or accused of grave crimes under international law, including war crimes and apartheid, whether or not such persons are German nationals;

(7) must cease immediately the breaches of its international obligations indicated above;

(8) must give assurances of non-repetition of the breaches of its obligations indicated above;

(9) must make full reparation for the injury caused its internationally wrongful acts.

V. Request for the indication of provisional measures

68. Under Article 41 of the Statute of the Court and in accordance with Rules 73, 74 and 75 of the Rules of Court, Nicaragua requests the Court to indicate provisional measures. Having regard both to the nature of the rights in question, which are erga ommes rights, and to the extreme and irreparable prejudice now being suffered by the Palestinian people – in particular the Gazan population – and in accordance with Article 74(1) of its Rules of Court, Nicaragua requests the Court to examine this application as a matter of priority.

69. This Request refers to the dire situation affecting the Palestinian people, especially in Gaza. The recent announcement of an imminent military intervention at Rafah – where more than one million people, expelled by Israel from the north of the Gaza Strip, have found relative refuge – confirms that the conflict is still intensifying. As the Court is aware 1.7 million out of

2.3 million people continue to be forcibly displaced, and the majority of those, 1.4 million refugees, are situated in Rafah governorate, which also serves as the base for all humanitarian operations.[118]

70. The Israeli Defense Minister has unequivocally expressed that "[ev]ery terrorist hiding in Rafah should know that their end will be like those in Khan Younis, Gaza City and every other place in the Gaza Strip: surrender or death". Indeed, as the Defense Minister has unashamedly pointed out there is only death in the rest of Gaza as Israel has deliberately reduced it all to rubble with a combination of indiscriminate bombing and the controlled demolition of civilian infrastructure. There are no residential buildings to which to return, no hospitals and no supplies of food anywhere else in Gaza. As of 21 February 2024 the WFP paused all deliveries of food aid to Northern Gaza, and on 26 February it was reported that "people [are] reportedly feeding their children animal fodder"[119].

71. On 21 February, a joint Statement by 19 Principals of the Inter-Agency Standing Committee was made public identifying ten requirements to avoid and even worst catastrophe in Gaza, among those requirements was the need for "UNRWA, the backbone of the humanitarian operations in Gaza, to receive the resources it needs to provide life-saving assistance"[120]. The Principals also highlighted that "further escalation of violence in this densely populated area [Rafah] would cause mass casualties. It could also deal a death blow to a humanitarian response that is already on its knees. There is no safe place in Gaza." The joint statement was signed, among others, by the Under Secretary General of Humanitarian Affairs (OCHA), the Executive Director of UNICEF, the Under Secretary General and Executive Director of UN Women, the Executive Director of WFP, the Director General of WHO, the Director General of Food and Agriculture Organization (FAO), the UN High Commissioner for Human Rights (OHCHR), the Chief Executive of Save the Children, the Executive Director of

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[118] Hostilities in the Gaza Strip and Israel, Flash Update 116, OCHA, 12 February 2023 available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-116 (last accessed 20 February 2024).

[119] Hostilities in the Gaza Strip and Israel, Flash Update 126, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-126 (last accessed 26 February 2024).

[120] Statement by Principals of the Inter-Agency Standing Committee - Civilians in Gaza in extreme peril while the world watches on: Ten requirements to avoid an even worse catastrophe, IASC, 21 February 2024, available at https://interagencystandingcommittee.org/inter-agency-standing-committee/statement-principals-inter-agency-standing-committee-civilians-gaza-extreme-peril-while-world (last accessed 25 February 2024).

UN Population Fund (UNFPA), the UN High Commissioner for Refugees (UNHCR), and the Executive Director of UN Human Settlement Programme (UN-Habitat)[121].

72. Moreover, on 23 February 2024, 34 Special Rapporteurs, Independent Experts and members of Working Groups part of the Special Procedures of the UN Human Rights Council (UNHRC) issued a press release calling for and immediate halt of arms exports to Israel, remarking that:

> "All States must 'ensure respect' for international humanitarian law by parties to an armed conflict, as required by 1949 Geneva Conventions and customary international law…States must accordingly refrain from transferring any weapon or ammunition – or parts for them – if it is expected, given the facts or past patterns of behaviour, that they would be used to violate international law…
>
> Such transfers are prohibited even if the exporting State does not intend the arms to be used in violation of the law – or does not know with certainty that they would be used in such a way – as long as there is a clear risk".

73. The experts also enfatically said that "any transfer of weapons or ammunition to Israel that would be used in Gaza is likely to violate international humanitarian law and must cease immediately" as "Israel has repeatedly failed to comply with international law". In that sense, the experts recalled the Order on Provisional Measures of 26 January 2024 and the duties of states under the Genocide Convention requiring them to employ all means reasonably available to them to prevent genocide, "particularly where a State has influence through its political, military, economic or other relations" pointing out that the United States and Germany "are by far the largest arms exporters and shipments have increased since 7 October 2023".[122]

74. The facts leave no doubt as to the imminent risk of a complete humanitarian catastrophe and yet, Germany continues to deliver political, financial and military aid to Israel while at the same time defunding the agency in charge of delivering humanitarian aid, including the much needed emergency services in times of hostilities. These facts also highlight the urgent need to further protect the rights of Palestinian population, which are also the *erga omnes* rights of Nicaragua, by impeding that more arms, components, technology or any other support is

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[121] *Ibid.*

[122] Arms exports to Israel must stop immediately: UN experts, 23 February 2024, available at https://www.ohchr.org/en/press-releases/2024/02/arms-exports-israel-must-stop-immediately-un-experts (last accessed 26 February 2024).

rendered to Israel that would enable the continuation of the violations of peremptory norms of international law.

A. The Imperative Need to Adopt Provisional Measures

75. As indicated above, there are compelling circumstances for the Court to adopt provisional measures as soon as possible.

76. A few weeks ago the Court itself considered that "the civilian population in the Gaza Strip remain[ed] extremely vulnerable" and that Israel's military operation had "resulted, inter alia, in tens of thousands of deaths and injuries and the destruction of homes, schools, medical facilities and other vital infrastructure, as well as displacement on a massive scale"[123]. The Court also highlighted that "15 per cent of the women giving birth in the Gaza Strip are likely to experience complications" and "that maternal and newborn death rates are expected to increase due to the lack of access to medical care".[124]

77. The most recent information only confirms the serious risk of deterioration determined by the Court. The United Nations reports that the massive civilian casualties continue, with at least 29,782 Palestinians killed in Gaza and 70,043 injured[125]. Without fully functional hospitals in Gaza, with 12 of the 36 hospitals only partially functional[126], there is currently no capacity to meet the healthcare needs of the population, disease prevention services are unable to function and humanitarian aid, including lifesaving supplies in Gaza are not fluidly allowed by Israel. Moreover, during the latest Security Council Meeting on 22 February, the Head of Doctors Without Borders told the members of the Council that "The […] psychological injuries have led children as young as five to tell us that they would prefer to die."[127]

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[123] ICJ, order, 26 January 2024, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, *Rep. 2024*, para. 70.
[124] *Ibid*., para. 72.
[125] Hostilities in the Gaza Strip and Israel, Flash Update 126, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-126 (last accessed 26 February 2024).
[126] Hostilities in the Gaza Strip and Israel- reported impact Day 142, OCHA, 26 February 2024, available at https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-142 (last accessed 26 February 2024).
[127] Children as young as five in Gaza want to die, the Daily Star, 24 February 2024, available at https://www.thedailystar.net/news/world/news/children-young-five-gaza-want-die-3551226?amp (last accessed 25 February 2024).

78. These are direct result of violations of international humanitarian law, the Genocide Convention and peremptory norms of general international law by Israel, with the facilitation of Germany and within the context of the looming ending of operations by UNRWA this month resulting from the cutting of funds by Germany and others.

B. THE COURT'S *PRIMA FACIE* JURISDICTION

79. In accordance with the Court's established case law, "if the provisions relied on by the applicant appear, *prima facie*, to afford a basis on which its jurisdiction could be founded, but it need not satisfy itself in a definitive manner that it has jurisdiction as regards the merits of the case."[128].

80. As it stated in its Application, Nicaragua bases the Court's jurisdiction principally on Article 36(2) of the Statute of the Court and the declarations of acceptance of the compulsory jurisdiction of the Court made by both Nicaragua and Germany. In the light of those declarations, the Court's jurisdiction is established to decide all type of legal issues submitted by the Parties to this case.

81. The Court's jurisdiction is also based on Article IX of the Genocide Convention, which provides that

> "Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

82. Neither Germany nor Nicaragua has made a reservation to Article IX of the Genocide Convention.

83. In order to establish its prima facie jurisdiction, it is for the Court to determine that the claims presented by the applicant are "capable of falling within the provisions" of conventions and customary rules invoked by the applicant in such a way that "the dispute is one which the

[128] ICJ, order, 26 January 2024, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, *Rep. 2024*, para. 15.

Court has jurisdiction *ratione materiae* to entertain"[129] Having regard to the principal basis of the Court's jurisdiction invoked, that is, the declarations made under Article 36 (2) of the Statute for all legal disputes, this condition is automatically fulfilled if there is a dispute between the Parties which does not fall within the reservations incorporated by Nicaragua and Germany in their declaration of acceptance of the Court's jurisdiction.

84. Furthermore, a dispute exists between Nicaragua and Germany over the actions taken by Germany in relation to the well documented situation taking place in the OPT, particularly in the Gaza Strip. The existence of this dispute is evident from the public statements of both parties and in particular it is attested in the note verbale sent by Nicaragua to Germany on 2 February, the press release and the public reaction of the German authorities described in paragraphs 27 to 30 above.

C. THE RIGHTS WHOSE PROTECTION IS SOUGHT, THEIR PLAUSIBILITY AND THE LINK BETWEEN THESE RIGHTS AND THE REQUESTED MEASURES

85. In order to indicate provisional measures on the basis of Article 41 of its Statute, the Court does not have to establish definitively the existence of established rights belonging to Nicaragua. It must only determine to what extent the rights claimed and whose protection is sought are "plausible" rights, that is to say "grounded in a possible interpretation" of the norms invoked[130] and if these rights are linked with the requested measures.

86. Both Nicaragua and Germany as Parties to the Genocide Convention have undertaken to prevent genocide which requires not only not aiding and assisting in the commission of the scourge of genocide but, moreover, aiding and assisting the victims in order to avoid further consequences of this odious crime. As the Court has pointed out, the obligation to prevent "arises at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed."[131] And more specifically the Court has stated that "the ban on genocide and the other acts listed in Article III, including complicity, places

[129] ICJ, order, 7 December 2016, *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, Request for the indication of provisional measures, *Rep. 2016*, p. 1159, para. 47.
[130] ICJ, order, 28 May 2009, *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Request for the indication of provisional measures, *Rep. 2009*, p. 152, para. 60.
[131] ICJ, judgment, 26 February 2007, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, *Rep. 2007*, p. 222, para. 431.

States under a negative obligation, the obligation not to commit the prohibited acts, while the duty to prevent places States under positive obligations, to do their best to ensure that such acts do not occur."[132]

87. Both Nicaragua and Germany are also parties to the International Convention on the Elimination of All Forms of Racial Discrimination. Independently of this conventional commitment, customary international law prohibits the prohibition of racial discrimination, segregation and apartheid and recognises these norms as peremptory norms of international law.[133] In view of the peremptory nature of these rules, in the case of racial discrimination as in the case of apartheid, States have a common interest in ensuring that these violations are brought to an end and are entitled to expect States to cooperate to this end.

88. Furthermore, common Article 1 of the Geneva Conventions, as well as, more broadly, their Additional Protocols, customary international law and the intransgressible principles of international humanitarian law, oblige States not to aid and assist parties to an armed conflict that are in breach of international humanitarian law and moreover, to ensure respect for these norms.

89. The Court has expressly recalled that, with regard to both genocide and humanitarian law, all States have a common interest in ensuring that they are respected.

90. With regard to the Genocide Convention, the Court stated that

> "In such a convention the contracting States do not have any interests of their own ; they merely have, one and au, a common interest, namely, the accomplishment of those high purposes which are the *raison d'être* of the convention. Consequently, in a convention of this type one cannot speak of individual advantages or disadvantages to States, or of the maintenance of a perfect contractual balance between rights and

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[132] *Ibid*., p. 223, para. 432.

[133] *Rome Statute of the International Criminal Court*, UNTS, Vol. 2187, p. 90, Article 7 (1) (j); *International Convention on the Elimination of all forms of Racial Discrimination*, 7 March 1966 (entry into force: 4 January 1969), UNTS, Vol. 660, p. 195 (ratified by Israel on 3 January 1979), Article 3; *Convention on the Suppression and Punishment of the Crime of Apartheid*, UNTS, Vol. 1015, p. 243 (entry into force: 18 July 1976), Articles 2 and 5; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977*, UNTS, Vol. 1125, p. 3, Article 85 (4) (c); Articles on Responsibility of States for Internationally Wrongful Acts, *ILC Yearbook*, 2001, Vol. II, Part Two, par. (4) of the commentary to Article 40 ; Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens), *Report of the International Law Commission, Seventy- third session (18 April–3 June and 4 July–5 August 2022)*, A/77/10, para. (8) of the commentary to Conclusion 23 and its annex.

duties. The high ideals which inspired the Convention provide, by virtue of the common will of the parties, the foundation and measure of al1 its provisions."[134]

91. As regards the rules of international humanitarian law invoked, in particular Article 1 common to the Geneva Conventions of 1949, the Court considered that:

"157. With regard to international humanitarian law, the Court recalls that in its Advisory Opinion on the *LegaIity of the Threat or Use of Nuclear Weapons* it stated that 'a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and elementary considerations of humanity' . . .', that they are 'to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law" (I.*C.J. Reports 1996 (I),* p. 257, para. 79). In the Court's view, these rules incorporate obligations which are essentially of an *erga omnes* character.

158. The Court would also emphasize that Article 1 of the Fourth Geneva Convention, a provision common to the four Geneva Conventions, provides that 'The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.' It follows from that provision that every State party to that Convention, whether or not it is a party to a specific conflict, is under an obligation to ensure that the requirements of the instruments in question are complied with."[135]

92. Accordingly, Nicaragua's application seeks protection of its "plausible" rights arising from the erga omnes obligations under both the Genocide Convention and the 1949 Geneva Conventions and their Additional Protocols, as well as rights arising under general international law, in particular the inalienable principles of international humanitarian law.

93. The provisional measures requested by Nicaragua are directly related to the "plausible" rights relied on. They are intended to ensure compliance by Germany with its obligation not to facilitate the commission of genocide or acts of genocide, to prevent the commission of genocide and breaches of humanitarian international law.

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[134] ICJ, order, 23 January 2020, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Request for the indication of provisional measures, *Rep. 2020*, p. 17, para. 41 quoting *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, *Rep. 1951*, p. 23.

[135] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, *Advisory Opinion, I.C.J. Reports 2004*, p. 199-200, paras. 157-158.

D. THE RISK OF IRREPARABLE HARM AND THE URGENT NEED TO PROTECT RIGHTS

94. The risk of irreparable harm and the urgent need to protect the rights of the Palestinian People particularly in the Gaza Strip is well known and has been established by the Court in its Order of 26 Janauary 2024 in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel) . In that Order the Court considered

> "that the civilian population in the Gaza Strip remains extremely vulnerable. It recalls that the military operation conducted by Israel after 7 October 2023 has resulted, *inter alia*, in tens of thousands of deaths and injuries and the destruction of homes, schools, medical facilities and other vital infrastructure, as well as displacement on a massive scale (…). The Court notes that the operation is ongoing and that the Prime Minister of Israel announced on 18 January 2024 that the war "will take many more long months". At present, many Palestinians in the Gaza Strip have no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating."[136]

95. As recently as 16 February 2024 in a press release published in the Web Page of the Court, the text of a communication sent by the Court to the Parties in the above case stated that

> "The Court notes that the most recent developments in the Gaza Strip, and in Rafah in particular, 'would exponentially increase what is already a humanitarian nightmare with untold regional consequences', as stated by the United Nations Secretary-General (Remarks to the General Assembly on priorities for 2024 (7 Feb. 2024)).
>
> This perilous situation demands immediate and effective implementation of the provisional measures indicated by the Court in its Order of 26 January 2024, which are applicable throughout the Gaza Strip, including in Rafah, and does not demand the indication of additional provisional measures.
>
> The Court emphasizes that the State of Israel remains bound to fully comply with its obligations under the Genocide Convention and with the said Order, including by ensuring the safety and security of the Palestinians in the Gaza Strip."

96. As is recalled in the above paragraphs, the risk of irreparable harm in the ongoing situation has already been determined to exist by the Court in the ongoing armed assault of Israel in the occupied territory of Gaza.

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[136] ICJ, order, 26 January 2024, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, *Rep. 2024*, p. 18, p. 22, para. 70.

97. In the *South Africa v Israel* case the only basis of jurisdiction was the Genocide Convention and the only basis for dictating provisional measures were those related to breaches of that Convention. The odious crime of genocide is committed by violations of humanitarian law with the intent to destroy a group of peoples. Notwithstanding the difficulties of proving the essential intent necessary for genocide to exist, the facts taken into account in that case led the Court to determine that the ongoing situation in Gaza is a "plausible" genocide.

98. In the present case, the wider jurisdiction given by Article 36 (2) of the Statute in relation to this request, implies that the rights to be protected are not only those of the Genocide Convention but also those of convenitional and customary humanitarian international law. Consequently, as the present request is based on the same basic facts that led the Court in that case to determine the plausibility of genocide and the imperative need for provisional measures, that determination by the Court necessarily implies that the humanitarian norms of the Geneva Conventions, in particular Geneva Convention IV, and other norms of peremptory international law are also plausibly being breached. As a matter of law all breaches of the Genocide Convention are necessarily breaches of the Geneva Conventions and international humanitarian law.

99. Based on the above, the risks to the rights Nicaragua seeks to preserve involving the lives of hundreds of thousands of people, makes it imperative and urgent that the Court orders provisional measures that will apply directly and unmistakeably to Germany.

100. The law applicable to this petition of provisional measures is clear. The Court "has the power to indicate provisional measures when irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable consequences."[137] An urgency exists when "there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision."[138]

[137] *See e.g.* ICJ, order, 16 March 2022, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening)*, p. 14, para. 65.
[138] *Ibid*., p. 14, para. 66.

E. THE PROVISIONAL MEASURES REQUESTED

101. On the basis of the facts set forth above, Nicaragua, as a State party to the Convention on the Prevention and Punishment of the Crime of Genocide, to the Four Geneva Conventions of 1949: for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; relative to the Treatment of Prisoners of War; and relative to the Protection of Civilian Persons in Time of War, as well as their 1966 Protocols and other relevant treaties protecting human rights and concerning international humanitarian law and as a member of the international community of States bound by peremptory norms of international law, Nicaragua respectfully requests the Court, as a matter of extreme urgency, pending the Court's determination of this case on the merits, to indicate the following provisional measures with respect to Germany in its participation in the ongoing plausible genocide and serious breaches of international humanitarian law and other peremptory norms of general international law occurring in the Gaza Strip:

(1) Germany shall immediately suspend its aid to Israel, in particular its military assistance including military equipment, in sor far as this aid may be used in the violation of the Genocide Convention, international humanitarian law or other peremptory norms of general international law such as the Palestinian People's right to self-determination and to not be subject to a regime of apartheid;

(2) Germany must immediately make every effort to ensure that weapons already delivered to Israel are not used to commit genocide, contribute to acts of genocide or are used in such a way as to violate international humanitarian law;

(3) Germany must immediately do everything possible to comply with its obligations under humanitarian law;

(4) Germany must reverse its decision to suspend the funding of UNRWA as part of the compliance of its obligations to prevent genocide and acts of genocide and the violation of the humanitarian rights of the Palestinian People which also includes the obligation to do everything possible to ensure that humanitarian aid reaches the Palestinian people, more particularly in Gaza;

(5) Germany must cooperate to bring to an end the serious breaches of peremptory norms of international law by ceasing its support, including its supply of military equipement to Israel that may be used to commit serious crimes of international law and that it continue the support of the UNRWA on which this Organizations has counted and based its activities.

102. Pursuant to Article 74 (4) of the Rules of the Court, and in light of the extremely urgent nature of the situation in Gaza, pending the meeting of the Court, Nicaragua respectfully requests the President of the Court to call upon Germany to take all measures necessary, including ceasing all acts that might constitute or facilitate the commission of violations to the Genocide Convention, the Geneva Conventions of 1949 and its Additional Protocol, and other peremptory norms of international law, in order to enable any order the Court may make to have its appropriate effects.

VI. Reservation of Rights

103. Nicaragua reserves the right to revise, supplement or amend the present Application and its Submissions, as well as the appointment of an Ad Hoc Judge.

VII. Appointment of an Agent

104. For the purposes of the present Application, the Government of the Republic of Nicaragua has appointed as Agent Ambassador Carlos Argüello Gómez as attested in the communication sent to the Court by the Foreign Minister of Nicaragua dated 1 March 2024, of which a copy is herewith attached as Annex 15. It is requested that all communications of this case be notified to the Agent at the following address: Eisenhowerlaan 112, 2517 KM, The Hague.

Carlos J. Argüello Gómez
Agent of the Republic of Nicaragua

The Hague, 1 March 2024

LIST OF ANNEXES

Annex 1. Note Verbale from the Ministry of Foreign Affairs of Nicaragua to the German Federal Foreign Office, 2 February 2024

Annex 2. Note from the Permanent Mission of Germany to the United Nations to the Permanent Mission of Nicaragua to the United Nations, 14 February 2024

Annex 3. Press Release of the Government of Nicaragua, 1 February 2024 (https://www.el19digital.com/articulos/ver/titulo:148879-gobierno-de-nicaragua-impedir-y-detener-el-genocidio-en-palestina)

Annex 4. Statements by the German Federal Foreign Office at the Government Press Conference, 7 February 2024 (extract) (https://www.auswaertiges-amt.de/de/newsroom/regierungspressekonferenz/2643166)

Annex 5. "Report on 2023: German weapons for 20 million to Israel", *ZDF heute*, 17 January 2024 (https://www.zdf.de/nachrichten/politik/ausland/waffenlieferungen-deutschland-israel-100.html)

Annex 6. "A request for ammunition from Israel plunges the German government into a dilemma", *NZZ*, 17 January 2024 (https://www.nzz.ch/international/munitionsanfrage-aus-israel-stuerzt-deutsche-regierung-in-ein-dilemma-ld.1774619)

Annex 7. Written questions to the Federal Government in December 2023, Question no. 12/531, 9 January 2024 (https://www.bmwk.de/Redaktion/DE/Parlamentarische-Anfragen/2023/12/12-531.pdf?__blob=publicationFile&v=8)

Annex 8. Government statement by Federal Chancellor Olaf Scholz on the situation in Israel to the German Bundestag, 12 October 2023 (https://www.bundesregierung.de/breg-de/service/newsletter-und-abos/bulletin/regierungserklaerung-von-bundeskanzler-olaf-scholz-2230150)

Annex 9. German Bundestag, Motion for a resolution of the SPD, CDU/CSU, Alliance 90/The Greens and FDP parliamentary groups on the issuance of a government statement by the Federal Chancellor on the situation in Israel, Document 20/8736, 10 October 2023

(https://dserver.bundestag.de/btd/20/087/2008736.pdf)

Annex 10. Speech by the Federal Minister for Foreign Affairs, Annalena Baerbock, at the beginning of the questioning of the Federal Government before the German Bundestag, 11 October 2023 (https://www.bundesregierung.de/breg-de/service/newsletter-und-abos/bulletin/rede-der-bundesministerin-des-auswaertigen-annalena-baerbock--2229732)

Annex 11. Government press conference, 11 October 2023 (extracts)

(https://www.bundesregierung.de/breg-de/aktuelles/regierungspressekonferenz-vom-11-oktober-2023-2229600 **)**

Annex 12. "German government examines delivery of tank ammunition to Israel", *Der Spiegel*, 16 January 2024 (https://www.spiegel.de/politik/deutschland/gaza-krieg-bundesregierung-prueft-lieferung-von-panzermunition-an-israel-a-0f0ce68d-7752-4b8e-81eb-9bd3a5692eeb)

Annex 13. German *Bundestag*, shorthand report, 153rd meeting, 21 February 2024 (extract) (https://dserver.bundestag.de/btp/20/20153.pdf)

Annex 14. Netherlands, Court of Appeal The Hague, 12 February 2024, ECLI:NL:GHDHA:2024:191 (extract)

Annex 15. Appointment of Agent

CERTIFICATION

The undersigned Agent of the Republic of Nicaragua certifies that the documents hereunder listed are true copies and conform to the original documents, and that the translations into English made by Nicaragua are accurate translations of the documents annexed to the Application by the Republic of Nicaragua instituting proceedings against the Federal Republic of Germany for violations to the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 1949 and its Additional Protocols, intransgressible principles of international humanitarian law and other peremptory norms of general international law in relation to the Occupied Palestinian Territory, particularly the Gaza Strip.

Carlos J. Argüello Gómez
Agent of the Republic of Nicaragua

The Hague, 1 March 2024