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رسالة مؤرخة 1 نيسان/أبريل 2024 موجهة من الأمين العام إلى رئيسة مجلس الأمن

عملا بالفقرة 2 من المادة 41 من النظام الأساسي لمحكمة العدل الدولية، يشرفني أن أحيل طيه أمر المحكمة المؤرخ 28 آذار/مارس 2024 والذي يشير باتخاذ تدابير تحفظية في القضية المتعلقة بتطبيق اتفاقية منع جريمة الإبادة الجماعية والمعاقبة عليها في قطاع غزة (جنوب أفريقيا ضد إسرائيل) (انظر المرفق)*.

(توقيع) أنطونيو غوتيريش

* يعمّم باللغتين اللتين قُدم بهما فقط.



الرجاء إعادة استعمال الورق

170724 170724 24-12885 (A)



المرفق

[الأصل: بالإنكليزية والفرنسية]

28 MARS 2024

ORDONNANCE

APPLICATION DE LA CONVENTION POUR LA PRÉVENTION ET LA RÉPRESSION
DU CRIME DE GÉNOCIDE DANS LA BANDE DE GAZA

(AFRIQUE DU SUD c. ISRAËL)

APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT
OF THE CRIME OF GENOCIDE IN THE GAZA STRIP

(SOUTH AFRICA v. ISRAEL)

28 MARCH 2024

ORDER

TABLE OF CONTENTS

	<i>Paragraphs</i>
CHRONOLOGY OF THE PROCEDURE	1-10
I. GENERAL OBSERVATIONS	11-23
II. CONDITIONS FOR THE INDICATION OF PROVISIONAL MEASURES	24-40
III. CONCLUSION AND MEASURES TO BE ADOPTED	41-49
OPERATIVE CLAUSE	51

INTERNATIONAL COURT OF JUSTICE

YEAR 2024

2024
28 March
General List
No. 192

28 March 2024

APPLICATION OF THE CONVENTION ON THE PREVENTION
AND PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP

(SOUTH AFRICA v. ISRAEL)

REQUEST FOR THE MODIFICATION OF THE ORDER OF 26 JANUARY 2024
INDICATING PROVISIONAL MEASURES

ORDER

Present: President SALAM; Vice-President SEBUTINDE; Judges TOMKA, ABRAHAM, YUSUF, XUE, BHANDARI, IWASAWA, NOLTE, CHARLESWORTH, BRANT, GÓMEZ ROBLEDÓ, CLEVELAND, AURESCU, TLADI; Judge ad hoc BARAK; Registrar GAUTIER.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 41 of the Statute of the Court and Article 76 of the Rules of Court,

Makes the following Order:

- 2 -

1. On 29 December 2023, the Republic of South Africa (hereinafter “South Africa”) filed in the Registry of the Court an Application instituting proceedings against the State of Israel (hereinafter “Israel”) concerning alleged violations in the Gaza Strip of obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention” or the “Convention”).

2. In its Application, South Africa seeks to found the Court’s jurisdiction on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention.

3. The Application contained a Request for the indication of provisional measures submitted with reference to Article 41 of the Statute and to Articles 73, 74 and 75 of the Rules of Court.

4. Since at the time of the filing of the Application the Court included upon the Bench no judge of the nationality of either of the Parties, each Party availed itself of its right under Article 31 of the Statute to choose a judge *ad hoc* to sit in the case. South Africa chose Mr Dikgang Ernest Moseneke and Israel chose Mr Aharon Barak. Following the election to the Court, with effect from 6 February 2024, of Judge Dire Tladi, a South African national, Mr Moseneke ceased to sit as judge *ad hoc* in the case, in accordance with Article 35, paragraph 6, of the Rules of Court.

5. After hearing the Parties, the Court, by an Order of 26 January 2024, indicated the following provisional measures:

“(1) The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and
- (d) imposing measures intended to prevent births within the group;

(2) The State of Israel shall ensure with immediate effect that its military does not commit any acts described in point 1 above;

(3) The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip;

(4) The State of Israel shall 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;

- 3 -

(5) The State of Israel shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II and Article III of the Convention on the Prevention and Punishment of the Crime of Genocide against members of the Palestinian group in the Gaza Strip;

(6) The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one month as from the date of this Order.”

6. By a communication dated 12 February 2024, South Africa, referring to “the developing circumstances in Rafah”, called upon the Court urgently to exercise its power under Article 75, paragraph 1, of the Rules of Court. By a letter dated 15 February 2024, Israel provided its observations on South Africa’s communication.

7. By letters dated 16 February 2024, the Registrar transmitted to the Parties the following decision of the Court in response to South Africa’s communication:

“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.”

8. On 26 February 2024, Israel submitted, within the time-limit fixed for that purpose, a report on all measures taken to give effect to the Court’s Order on the indication of provisional measures of 26 January 2024, pursuant to paragraph 86, subparagraph 6, thereof. South Africa presented its observations on that report on 11 March 2024.

9. On 6 March 2024, South Africa requested the Court “to indicate further provisional measures and/or to modify its provisional measures indicated on 26 January 2024”, with reference to Article 41 of the Statute of the Court, as well as Articles 75, paragraphs 1 and 3, and 76 of the Rules of Court (hereinafter the “Request of 6 March 2024”). The Deputy-Registrar immediately communicated a copy of South Africa’s request to the Government of Israel. By a subsequent communication, the Registrar informed the Respondent that 15 March 2024 had been fixed as the time-limit within which it could present written observations regarding that request.

- 4 -

10. On 15 March 2024, Israel provided its written observations on the Request of 6 March 2024.

*

* *

I. GENERAL OBSERVATIONS

11. South Africa requests the “indication, clarification and/or modification” of provisional measures in the following terms:

“1. All participants in the conflict must ensure that all fighting and hostilities come to an immediate halt, and that all hostages and detainees are released immediately.

2. All Parties to the Convention on the Prevention and Punishment of the Crime of Genocide must, forthwith, take all measures necessary to comply with all of their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.

3. All Parties to the Convention on the Prevention and Punishment of the Crime of Genocide must, forthwith, refrain from any action, and in particular any armed action or support thereof, which might prejudice the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts, or any other rights in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

4. The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address famine and starvation and the adverse conditions of life faced by Palestinians in Gaza, by:

- (a) immediately suspending its military operations in Gaza;
- (b) lifting its blockade of Gaza;
- (c) rescinding all other existing measures and practices that directly or indirectly have the effect of obstructing the access of Palestinians in Gaza to humanitarian assistance and basic services; and
- (d) ensuring the provision of adequate and sufficient food, water, fuel, shelter, clothing, hygiene and sanitation requirements, alongside medical assistance, including medical supplies and support.

5. The State of Israel shall submit an open report to the Court on all measures taken to give effect to all provisional measures ordered by the Court to date, within one month as from the date of this Order.”

- 5 -

12. At the end of its written observations, Israel asks the Court to reject South Africa's Request of 6 March 2024 and not to indicate any further provisional measures.

* *

13. The Court considers that South Africa's Request of 6 March 2024 is a request for the modification of the Order of 26 January 2024. For this reason, the Court must determine whether the conditions set forth in Article 76, paragraph 1, of the Rules of Court have been fulfilled. That paragraph reads as follows:

“At the request of a party or *proprio motu*, the Court may, at any time before the final judgment in the case, revoke or modify any decision concerning provisional measures if, in its opinion, some change in the situation justifies such revocation or modification.”

14. The Court must therefore first ascertain whether, taking account of the information that the Parties have provided with respect to the current situation, there is reason to conclude that the situation that warranted the indication of certain provisional measures in January 2024 has changed since that time. In considering the request before it, the Court will take account of both the situation that existed when it issued the Order of 26 January 2024 and any changes to that situation since that date, as claimed by South Africa. If the Court finds that there was a change in the situation since the delivery of its earlier Order, it will then have to consider whether such a change justifies a modification of its decision concerning provisional measures previously indicated. Any such modification would only be appropriate if the new situation were, in turn, to require the indication of provisional measures; that is to say, if the general conditions laid down in Article 41 of the Statute of the Court were also met in this instance (*Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Request for the Modification of the Order Indicating Provisional Measures of 7 December 2021, Order of 12 October 2022, I.C.J. Reports 2022 (II)*, p. 581, para. 12).

15. The Court will thus begin by determining whether there has been a change in the situation that warranted the measures indicated in its Order of 26 January 2024.

* *

16. South Africa states that its Request of 6 March 2024 is prompted by the

“horrible deaths from starvation of Palestinian children, including babies, brought about by Israel's deliberate acts and omissions . . . including Israel's concerted attempts since 26 January 2024 to ensure the defunding of [the United Nations Relief and Works Agency (UNRWA)] and Israel's attacks on starving Palestinians seeking to access what extremely limited humanitarian assistance Israel permits into Northern Gaza, in particular”.

In the Applicant's view, these developments, in particular the widespread starvation, constitute a "change in the situation in Gaza" for the purposes of Article 76 of the Rules of Court.

17. Israel rejects "in the strongest terms" South Africa's claims that incidents of starvation in Gaza are a direct result of its deliberate acts and omissions. It states that the armed hostilities in Gaza were in progress on 26 January 2024 and still continue. Furthermore, according to the Respondent, the Court had already taken account, in its Order of 26 January 2024, of materials introduced by South Africa with respect to food insecurity in Gaza. Consequently, in Israel's view, "the difficult and tragic situation in the Gaza Strip in the last weeks could not be said to materially change the considerations upon which the Court based its original decision concerning provisional measures".

* *

18. The Court recalls that, in its Order of 26 January 2024, it concluded that the civilian population in Gaza was extremely vulnerable, noting that many Palestinians in the Gaza Strip had "no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating" (*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. 70). In its decision communicated to the Parties by letters of 16 February 2024, the Court noted, quoting the United Nations Secretary-General, that the developments in the Gaza Strip, and in Rafah in particular, "would exponentially increase what is already a humanitarian nightmare with untold regional consequences" (see paragraph 7 above). The Court observes with regret that, since then, the catastrophic living conditions of the Palestinians in the Gaza Strip have deteriorated further, in particular in view of the prolonged and widespread deprivation of food and other basic necessities to which the Palestinians in the Gaza Strip have been subjected.

19. The Court notes that, on 18 March 2024, an updated report on food insecurity in the Gaza Strip was issued by the Integrated Food Security Phase Classification Global Initiative (IPC Global Initiative), a global partnership of organizations including, *inter alia*, the World Food Programme (WFP), the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO). According to this report:

"The IPC acute food insecurity analysis conducted in December 2023 warned of a risk that Famine may occur by the end of May 2024 if an immediate cessation of hostilities and sustained access for the provision of essential supplies and services to the population did not take place. Since then, the conditions necessary to prevent Famine have not been met and the latest evidence confirms that Famine is imminent in the northern governorates and projected to occur anytime between mid-March and May 2024." (IPC Global Initiative, "Special Brief: the Gaza Strip", 18 March 2024.)

20. The Court also notes that earlier, on 15 March 2024, the United Nations Children's Fund (UNICEF) reported that 31 per cent of children under 2 years of age in the northern Gaza Strip

- 7 -

suffered from acute malnutrition, “a staggering escalation from 15.6 per cent in January”, and warned that “[m]alnutrition among children is spreading fast and reaching devastating and unprecedented levels in the Gaza Strip due to the wide-reaching impacts of the war and ongoing restrictions on aid delivery” (UNICEF, “Acute malnutrition has doubled in one month in the north of Gaza strip: UNICEF”, press release, 15 March 2024).

21. The Court observes that Palestinians in Gaza are no longer facing only a risk of famine, as noted in the Order of 26 January 2024, but that famine is setting in, with at least 31 people, including 27 children, having already died of malnutrition and dehydration according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) (OCHA, “Hostilities in the Gaza Strip and Israel — reported impact, Day 169”, 25 March 2024).

22. The Court considers that the above-mentioned developments, which are exceptionally grave, constitute a change in the situation within the meaning of Article 76 of the Rules of Court.

23. The Court is also of the view that the provisional measures indicated in the Order of 26 January 2024 do not fully address the consequences arising from the changes in the situation explained above, thus justifying the modification of these measures. However, in order to modify the decision set out in that Order, the Court must still satisfy itself that the general conditions laid down in Article 41 of the Statute of the Court are met in the current situation.

II. CONDITIONS FOR THE INDICATION OF PROVISIONAL MEASURES

24. The Court recalls that, in its Order of 26 January 2024 indicating provisional measures in the present case, it concluded that “prima facie, it has jurisdiction pursuant to Article IX of the Genocide Convention to entertain the case” (*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. 31). The Court sees no reason to revisit this conclusion for the purposes of deciding on the Request of 6 March 2024.

25. In that Order, the Court also found that at least some of the rights claimed by South Africa under the Genocide Convention and for which it is seeking protection were plausible, namely the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts mentioned in Article III, and the right of South Africa to seek Israel’s compliance with the latter’s obligations under the Convention. The Court considered also that, by their very nature, at least some of the provisional measures sought by South Africa are aimed at preserving these rights (*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. 54 and 59). The Court also sees no reason to revisit this conclusion for the purposes of deciding on the Request of 6 March 2024.

26. The Court must now consider whether the current situation entails a risk of irreparable prejudice to the plausible rights claimed by South Africa and whether there is urgency that would justify the modification of the decision set out in its Order of 26 January 2024.

- 8 -

27. The Court recalls in this regard that it concluded, in its Order of 26 January 2024, that in view of the fundamental values sought to be protected by the Genocide Convention, the plausible rights in question in these proceedings are of such a nature that prejudice to them is capable of causing irreparable harm and that there was urgency, in the sense that there existed a real and imminent risk that irreparable prejudice would be caused to those rights before it gives its final decision (see *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. 65-74).

* *

28. According to the Applicant, the demand for “additional and/or modified provisional measures . . . could not be starker”, having regard to the magnitude and gravity of the situation facing the Palestinian people in Gaza. South Africa states that, as of 6 March 2024, in addition to causing the death by starvation of Palestinian children, “Israel has also continued to kill approximately 4,548 Palestinian men, women and children since 26 January 2024, and to wound a further 7,556”.

29. The Respondent contends that nothing in the Request of 6 March 2024 establishes that the provisional measures already indicated by the Court would no longer be sufficient. Israel recognizes that food insecurity in Gaza, and especially in northern Gaza, is a serious challenge, but states that there is an “extensive record of Israeli efforts in the humanitarian sphere to alleviate the suffering of the civilian population in general and to address the challenge of food insecurity in particular”. Israel refers, *inter alia*, to the establishment of a maritime corridor and a floating pier, to humanitarian airdrops and the facilitation of aid through land routes, as well as its co-operation with United Nations agencies. Furthermore, according to Israel, South Africa has given no justification for the specific additional provisional measures sought in its Request of 6 March 2024.

* *

30. The Court has already observed that the catastrophic humanitarian situation in the Gaza Strip that existed when it issued its Order of 26 January 2024 has deteriorated even further (see paragraphs 18-21 above).

31. The Court notes the unprecedented levels of food insecurity experienced by Palestinians in the Gaza Strip over recent weeks, as well as the increasing risks of epidemics. It recalls, in this regard, the briefing provided to the Security Council by senior representatives of OCHA, FAO and WFP on 27 February 2024. In that context, the Director of Coordination of OCHA stated:

“In December, it was projected that the entire population of 2.2 million people in Gaza would face high levels of acute food insecurity by February 2024 — the highest share of people facing that level of food insecurity ever recorded worldwide. . . .

- 9 -

Unfortunately, as grim as the picture we see today is, there is every possibility for further deterioration. Military operations, insecurity and extensive restrictions on the entry and delivery of essential goods have decimated food production and agriculture.” (United Nations Security Council, doc. S/PV.9560, 27 February 2024.)

32. According to a report issued by WHO on 22 February 2024,

“[t]he risk of further spread of epidemic-prone diseases is high due to overcrowding, inadequate water, sanitation and waste management, lack of medical/infection prevention and control . . . and basic hygiene supplies, disruption of routine, vaccine-preventable disease programmes, and a dysfunctional health-care system, including staffing issues due to conflict” (WHO, *Infection prevention and control and water, sanitation and hygiene measures in health-care settings and shelters/congregate settings in Gaza*, Technical note, 22 February 2024).

33. The Respondent has referred to “significant measures undertaken continuously by Israel throughout the present hostilities — including various humanitarian initiatives and the ongoing coordination of access to humanitarian supplies”. The Court recalls that Israel has explained that the challenges it faces in facilitating humanitarian relief to Gaza are manifold, and that “[s]ome of these challenges are inherent to any theatre of active hostilities, particularly one that is densely populated and heavily dependent on international aid”.

34. The Court also notes the statement of the United Nations High Commissioner for Human Rights, according to which

“[t]he situation of hunger, starvation and famine is a result of Israel’s extensive restrictions on the entry and distribution of humanitarian aid and commercial goods, displacement of most of the population, as well as the destruction of crucial civilian infrastructure” (Office of the High Commissioner for Human Rights (OHCHR), “Comment by UN High Commissioner for Human Rights Volker Türk on the risk of famine in Gaza”, press release, 19 March 2024).

35. The Court observes that, as also stated by United Nations representatives and others, while air and sea routes are helpful under the present circumstances, there is no substitute for land routes and entry points from Israel into Gaza to ensure the effective and efficient delivery of food, water, medical and humanitarian assistance; there is an urgent need to increase the capacity and number of open land crossing points into Gaza and to maintain them open so as to increase the flow of aid delivery (see, for example, United Nations, “Joint statement by Sigrid Kaag, UN Senior Humanitarian and Reconstruction Coordinator for Gaza, and Jorge Moreira da Silva, UN Under-Secretary-General and Executive Director of the United Nations Office for Project Services (UNOPS), welcoming the opening of a maritime corridor to Gaza”, press release, 12 March 2024).

36. The Court takes note moreover of certain declarations of representatives of the United Nations and the various organizations attempting to provide relief in Gaza, according to which the

catastrophic humanitarian situation can only be addressed if the military operations in the Gaza Strip are suspended. For instance, the UN Under-Secretary-General for Humanitarian Affairs stated that “the humanitarian community knows what to do to save lives in Gaza, but we need the right conditions and guarantees. These include a ceasefire and full adherence to the rules of war” (United Nations, Meetings Coverage and Press Releases, “Daily Press Briefing by the Office of the Spokesperson for the Secretary-General”, 8 March 2024). In the same vein, WFP’s Deputy Executive Director emphasized that “[a] ceasefire in Gaza is urgently needed to enable an operation of this size” (WFP, “WFP food deliveries to northern Gaza face further setbacks”, news release, 5 March 2024) and, according to the Executive Director of UNICEF, “[a]n immediate humanitarian ceasefire continues to provide the only chance to save children’s lives and end their suffering” (UNICEF, “Acute malnutrition has doubled in one month in the north of Gaza strip: UNICEF”, press release, 15 March 2024). The President of the International Committee of the Red Cross (ICRC) also issued an “urgent call [for] a cessation of hostilities to allow for meaningful assistance to reach the people in need” (ICRC, “A statement on Gaza and Israel from the President of the ICRC”, news release, 11 March 2024).

37. The Court also takes note of resolution 2728 (2024) of the Security Council, which “[d]emand[ed] an immediate ceasefire for the month of Ramadan respected by all parties leading to a lasting sustainable ceasefire”.

38. The Secretary-General of the United Nations, for his part, referring to the latest IPC Global Initiative report on food insecurity in Gaza, stated that:

“Palestinians in Gaza are enduring horrifying levels of hunger and suffering.

This is the highest number of people facing catastrophic hunger ever recorded by the Integrated Food Security Classification system — anywhere, anytime.

This is an entirely manmade disaster — and the report makes clear that it can be halted.

Today’s report is Exhibit A for the need for an immediate humanitarian ceasefire.” (United Nations, Secretary-General’s press encounter on Gaza food insecurity report — Statement, 18 March 2024.)

39. The Court recalls that, since 26 January 2024, Israel’s military operation has reportedly led to over 6,600 additional fatalities and almost 11,000 additional injuries among Palestinians in the Gaza Strip (OCHA, “Hostilities in the Gaza Strip and Israel — reported impact, Day 169”, 25 March 2024).

40. In light of the considerations set out above, and taking account of the provisional measures indicated on 26 January 2024, the Court finds that the current situation before it entails a further risk of irreparable prejudice to the plausible rights claimed by South Africa and that there is urgency, in the sense that there exists a real and imminent risk that such prejudice will be caused before the Court gives its final decision in the case.

III. CONCLUSION AND MEASURES TO BE ADOPTED

41. The Court concludes, on the basis of the above considerations, that the circumstances of the case require it to modify its decision concerning provisional measures indicated in the Order of 26 January 2024.

42. The Court recalls that, in accordance with Article 75, paragraph 2, of its Rules, when a request for the indication of provisional measures has been made, it has the power under its Statute to indicate measures that are, in whole or in part, other than those requested.

43. In the present case, having considered the terms of the provisional measures requested by South Africa and the circumstances of the case, the Court finds that the measures to be indicated need not be identical to those requested.

44. With regard to the measures requested by South Africa addressed to States or entities not parties to the present proceedings, the Court recalls that:

“the judgment in a particular case by which disputed rights may be adjudged by the Court to belong to the Applicant or to the Respondent has, in accordance with Article 59 of the Statute of the Court, ‘no binding force except between the parties’ . . . accordingly the Court may, for the preservation of those rights, indicate provisional measures to be taken by the parties, but not by third States or other entities who would not be bound by the eventual judgment to recognize and respect those rights” (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), Provisional Measures, Order of 13 September 1993, I.C.J. Reports 1993, p. 344, para. 40*).

The Court thus cannot, in the exercise of its power to indicate provisional measures in the present case, indicate the first three provisional measures sought by the Applicant (see paragraph 11 above).

45. In conformity with its obligations under the Genocide Convention, and in view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation, Israel shall: (a) take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary; and (b) ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the Genocide Convention, including by preventing, through any action, the delivery of urgently needed humanitarian assistance.

46. The Court further considers that the catastrophic situation in the Gaza Strip confirms the need for immediate and effective implementation of the measures indicated in its Order of 26 January

- 12 -

2024, which are applicable throughout the Gaza Strip, including in Rafah. In these circumstances, the Court finds it necessary to reaffirm the measures indicated in that Order.

47. In view of the specific provisional measures it has decided to indicate, the Court considers that Israel must submit a report to the Court on all measures taken to give effect to this Order, within one month as from the date of this Order. The report so provided shall then be communicated to South Africa, which shall be given the opportunity to submit to the Court its comments thereon.

48. The Court recalls that its orders on provisional measures under Article 41 of the Statute have binding effect and thus create international legal obligations for any party to whom the provisional measures are addressed (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022 (I)*, p. 230, para. 84).

49. The Court underlines that the present Order is without prejudice to any findings concerning the Respondent's compliance with the Order of 26 January 2024.

*

* *

50. In its Order of 26 January 2024, the Court expressed its grave concern over the fate of the hostages abducted during the attack in Israel on 7 October 2023 and held since then by Hamas and other armed groups, and called for their immediate and unconditional release. The Court finds it deeply troubling that many of these hostages remain in captivity and reiterates its call for their immediate and unconditional release.

*

* *

51. For these reasons,

THE COURT,

(1) By fourteen votes to two,

Reaffirms the provisional measures indicated in its Order of 26 January 2024;

IN FAVOUR: *President Salam; Judges Tomka, Abraham, Yusuf, Xue, Bhandari, Iwasawa, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi;*

- 13 -

AGAINST: *Vice-President Sebutinde; Judge ad hoc Barak;*

(2) *Indicates* the following provisional measures:

The State of Israel shall, in conformity with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, and in view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation:

(a) Unanimously,

Take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary;

(b) By fifteen votes to one,

Ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the Convention on the Prevention and Punishment of the Crime of Genocide, including by preventing, through any action, the delivery of urgently needed humanitarian assistance;

IN FAVOUR: *President Salam; Vice-President Sebutinde; Judges Tomka, Abraham, Yusuf, Xue, Bhandari, Iwasawa, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi;*

AGAINST: *Judge ad hoc Barak;*

(3) By fifteen votes to one,

Decides that the State of Israel shall submit a report to the Court on all measures taken to give effect to this Order, within one month as from the date of this Order.

IN FAVOUR: *President Salam; Vice-President Sebutinde; Judges Tomka, Abraham, Yusuf, Xue, Bhandari, Iwasawa, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi;*

AGAINST: *Judge ad hoc Barak.*

- 14 -

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this twenty-eighth day of March, two thousand and twenty-four, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of South Africa and the Government of the State of Israel, respectively.

(Signed) Nawaf SALAM,
President.

(Signed) Philippe GAUTIER,
Registrar.

President SALAM appends a declaration to the Order of the Court; Judge YUSUF appends a declaration to the Order of the Court; Judges XUE, BRANT, GÓMEZ ROBLEDO and TLADI append a joint declaration to the Order of the Court; Judge NOLTE appends a separate opinion to the Order of the Court; Judge CHARLESWORTH appends a declaration to the Order of the Court; Judge *ad hoc* BARAK appends a separate opinion to the Order of the Court.

(Initialed) N.S.

(Initialed) Ph.G.
