

Baroness Ashton, High Representative for Foreign Affairs and Security Policy
Ambassadors to the EU Political and Security Committee
Chair of the Council's Working Party on Human Rights
Chair of the Council's United Nations' Working Party

Date: 21 July 2014

**Human Rights Council Special Session on Palestine:
the EU must not repeat past mistakes regarding Israeli military attacks
against the Gaza Strip**

Your Excellencies, Chair of the Council's Working Party on Human Rights, and Chair of the Council's United Nations' Working Party,

The Palestinian Human Rights Organisations Council (PHROC), a coalition of twelve Palestinian human rights organisations, are alarmed at Israel's unrestricted and expanded military attack against the occupied Gaza Strip. Whereas 'Operation Protective Edge' was initially fought through aerial bombardments, Israel has now commenced a ground invasion.

On 14 July 2014, PHROC submitted a [letter to the EU](#) detailing Israel's targeting of Palestinian civilians and the extent of the destruction and damage caused to civilian objects, which may amount to war crimes. PHROC also put forth the legal framework governing the conduct of hostilities and urged the EU to demand that all parties comply with international humanitarian law, including the principles of distinction and proportionality. In particular, PHROC called on the EU to resort to all operational measures at its disposal with a view of bringing Israel's violations of international humanitarian law to an end. Measures that are at the disposal of the EU include the adoption of strongly worded condemnation and demarches, the adoption of restrictive measures such as arms embargoes, the suspension of political cooperation, and pushing for Palestinian ratification of the Rome Statute of the International Criminal Court. As will be further detailed in this letter, the EU must also actively participate in the upcoming Human Rights Council (HRC) Special Session on 23 July 2014. At the special session, the EU must support the establishment of an independent commission of inquiry into violations of international law committed during ongoing hostilities. We hereby reiterate that Israel's justification of self-defence needs to be refuted and that EU member states' continued referral to this right has only boldened Israel.

In light of the international community's devastating failure to exert real pressure on Israel to bring its actions in line with international humanitarian law, Israel is expanding its military offensive and the Palestinian death toll is mounting. As of 21 July 2014 at 1 p.m., Palestinian human rights organisations have documented the killing of 505 Palestinians, including 130 children, with the overwhelming majority being civilians. In addition, at least 2,665 Palestinians have been injured. Furthermore, Israel has continued to target civilian objects, including 4 hospitals, 45 schools and 16 NGOs. Israel has also continued its unabated practice of 'knock-on-the roof' and issued 'fake warnings'. The latter refers to instances where Israel informs families that their homes will be bombarded without actually carrying out the attack. Such warnings instill fear into the Palestinian population and contributes to the daily increase of displaced Palestinians. As of 20 July, the UN Office for the Coordination of Humanitarian Affairs has reported that over 100,000 Palestinians are currently displaced and that 84,000 of these have sought refuge in UNRWA schools.

As the HRC is preparing to convene its special session on Palestine, PHROC would like to raise its grave concerns regarding the EU's current and previous approach to Israel's military attacks.

The Importance of EU consensus at the Human Rights Council

On 23 July, the UN Human Rights Council will convene a special session on the human rights situation in the Occupied Palestinian Territory (OPT). This session will address the violations committed in the context of 'Operation Protective Edge' and proposals on the establishment and dispatch of an urgent and independent commission of inquiry have been put forward. Such a commission of inquiry is of extreme importance as it would result in the independent reporting on violations of international law and set out actions to be undertaken by states and international bodies in response to violations identified. PHROC is, however, gravely concerned about the EU and its member states' potentially harmful positions during this special session, including its response to a commission of inquiry. This concern emanates from EU's previous [\(non-\) involvement in HRC sessions](#) related to Palestine more generally, the EU's past failures to utilise the HRC for the purpose of ensuring that Israel complies with its international legal obligations, and the EU member states' shameful inability to unite in their position on UN action regarding Israeli military attacks.

In January 2009, a similar special session was convened to address "the grave violations of human rights" in the OPT, particularly in light of Israel's 2008-09 military offensive on the Gaza Strip codenamed '[Operation Cast Lead](#)'. This 22-day offensive resulted in the killing of over 1,400 Palestinians, including 1172 civilians of which 342 were children. Furthermore, over 5,000 Palestinians were injured. Despite blatant violations of international law and evidence of war crimes and crimes against humanity, no EU member state supported the establishment and dispatch of a UN Fact-finding mission. Neither did EU member states jointly support the report and recommendations of that Fact-finding mission, which was set up nonetheless. Instead, EU member states outrageously voted against, abstained, or didn't vote on the endorsement of the Fact-finding mission report. EU member states' positions on the implementation of the report have been equally disappointing.

It must be emphasised that the EU's approach to the Palestinian issue at the HRC contravenes the 2012 EU Strategic Framework and Action Plan on Human Rights and Democracy which promises an EU "committed to a strong multilateral human rights system which can monitor impartially implementation of human rights and call all States to account". This EU document further underlines the "leading role of the UN Human Rights Council in addressing urgent cases of human rights violations and [contributing] vigorously to the effective functioning of the Council". But most seriously, the EU's approach at the HRC is part of the reason for why Israel has not changed its conduct of hostilities.

The current round of hostilities in many ways echoes Israel's previous military attacks against the Gaza Strip, including 'Operation Cast Lead' and 2012 '[Operation Pillar of Defense](#)'; Israel is indiscriminately and disproportionately killing Palestinian civilians, unlawfully targeting police officers and stations, utilising 'knock-on-the-roof' warnings, destroying Palestinian homes, and displacing tens of thousands of Palestinians whilst closing the borders.

Recommendations

In an attempt to ensure that Palestinians do no longer suffer at the hands of Israel without the EU's effective resistance and in order to ensure that the EU does repeat its past mistakes in terms of Israeli military operations, PHROC calls on the EU and its member states to:

- Actively participate in the 21st HRC special session with a view of bringing violations of international law to an end, including by supporting the establishment and dispatch of a UN independent commission of inquiry;
- Clarify Israel's obligations as an Occupying Power engaged in hostilities in Palestine;
- Immediately and unequivocally deplore Israel's indiscriminate and disproportionate attacks against Palestinian civilians and civilian objects;
- Demand that all parties comply with their international humanitarian law obligations, including the principles of distinction, proportionality and military necessity;
- Refrain from condoning Israel's misuse of the notion of self-defence;
- Take the position that the root cause of the ongoing hostilities is Israel's belligerent occupation and accompanied violations of international law, including the Palestinian inherent right to self-determination;
- In line with its own commitments and according to the EU Guidelines on Promoting Compliance with International Humanitarian Law, immediately resort to all the operational measures at its disposal, including the adoption of restrictive measures, in an effort to ensure Israel's compliance with its legal obligations;
- Ensure that perpetrators of violations of international law are held to account, including through the exercise of universal jurisdiction;
- Unequivocally support Palestinian accession of the Rome Statute of the International Criminal Court in order to ensure that an international forum will be accessible to address the crimes committed during the course of ongoing hostilities in the OPT as well as previously committed and continuing crimes.

Sincerely,

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**Ensan Center for
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