



6 December 2023

**REQUESTING THAT THE INDEPENDENT COMMISSION OF INQUIRY  
INVESTIGATE UNRWA PERSONNEL SUPPORTING HAMAS IN  
DETAINING HOSTAGES AND HAMAS' USE OF UNRWA FACILITIES  
FOR MILITARY PURPOSES**

**I. INTRODUCTION**

The European Centre for Law and Justice (ECLJ) submits this appeal to the Commission in light of the reports alleging UNRWA employees supported Hamas in detaining Israeli hostages and the use of UNRWA facilities by Hamas for military purposes to investigate such actions.

The ECLJ is a non-governmental organisation dedicated to the defence of human rights around the world. The ECLJ has Special Consultative status with the United Nations' ECOSOC<sup>1</sup> and has contributed to the United Nations' work through numerous submissions before different UN bodies, as well as the International Criminal Court.

**II. REPORTS OF UNRWA EMPLOYEES SUPPORTING HAMAS IN  
DETAINING HOSTAGES AND USE OF UNRWA FACILITIES BY  
HAMAS FOR MILITARY PURPOSES**

In light of our commitment to the rule of law in international affairs, we are distressed to learn of the reports coming out of Gaza regarding UNRWA personnel's involvement in Hamas' war crime of hostage taking and the intentional misuse of UNRWA facilities in the Gaza Strip in support of Hamas.<sup>2</sup> Such actions clearly violate the UN Charter,<sup>3</sup> a number of UN Security Council resolutions,<sup>4</sup> and International Humanitarian Law (IHL).<sup>5</sup> The very reputation and legitimacy of the UN and its various arms and agencies

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<sup>1</sup>*The European Centre for Law and Justice*, U.N. DEP'T. OF ECON. AND SOC. AFFS., <https://esango.un.org/civilsociety/consultativeStatusSummary.do?profileCode=3010> (last visited 6 Dec. 2023).

<sup>2</sup> Pamela Falk, *Israel Says These Photos Show How Hamas Places Weapons in and Near U.N. Facilities in Gaza, including schools*, CBS NEWS (8 Nov. 2023), <https://www.cbsnews.com/news/israel-photos-hamas-gaza-weapons-un-facilities-including-schools>.

<sup>3</sup> U.N. Charter art. 2, ¶ 4.

<sup>4</sup> See, e.g., S.C. Res. 1373, ¶ 1(d) (28 Sept. 2001); S.C. Res. 1456, ¶ 2(c) (20 Jan. 2003).

<sup>5</sup> See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977, arts. 48, 51(7), 52(1), 58.

are at stake, especially since Hamas is widely recognised as a terrorist organisation and consistently engaged in these unlawful practices.<sup>6</sup>

On 29 November 2023, it was reported that one of the kidnapped Israeli children was held hostage for more than 50 days in the attic of the house of an UNRWA teacher.<sup>7</sup> While he was holding the boy hostage in his home, the teacher did not provide adequate food or medical attention to the boy.<sup>8</sup> A spokeswoman for UNWRA acknowledged the allegations, but declined to comment.<sup>9</sup> According to the same report, another hostage was held captive by a doctor in Gaza, who continued to provide care to children in the hospital, but not for the Israeli child.<sup>10</sup>

Moreover, another report shows a video posted on the official Facebook page of an UNRWA-run school in Nablus, showing a young student calling for the victory of Hamas' "Jihad warriors" in Gaza.<sup>11</sup> UNRWA school teachers have also praised Hamas attacks on Israel.<sup>12</sup> The report also revealed that more than 100 Hamas terrorists were confirmed to have graduated from UNRWA schools.<sup>13</sup>

These reports, as well as the recently reported use of an UNRWA warehouse facility as a Hamas rocket launching site in Gaza ("and another very close to an UNRWA-run school")<sup>14</sup> strongly suggests that UNRWA employees may be acting in concert and/or cooperating with Hamas operatives in unlawfully attacking a UN Member State. That cannot be tolerated and may, in fact, constitute a war crime.<sup>15</sup> At a minimum, it places in question the legitimacy of all UNRWA operations in Gaza.

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<sup>6</sup> See, e.g., *Foreign Terrorist Organizations*, U.S. DEP'T. OF STATE: BUREAU OF COUNTERTERRORISM, <https://www.state.gov/foreign-terrorist-organizations> (last visited 6 Dec. 2023) (designating Hamas as a terrorist organisation on 8 October 1997); *Currently Listed Entities*, PUBLIC SAFETY CANADA, <http://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx> (last visited 6 Dec. 2023) (listing "Hamas (Harakat Al-Muqawama Al-Islamiya) (Islamic Resistance Movement)" as a terrorist entity). Also, Germany recently banned "activities supporting Hamas, which builds on the EU's designation to fully restrict and criminalize support of the terrorist group." Matthew Miller, *The United States Applauds Germany's Ban on Hamas Activities*, U.S. DEP'T. OF STATE (8 Nov. 2023), <https://www.state.gov/the-united-states-applauds-germanys-ban-on-hamas-activities>. Following the attacks of 7 October 2023, Japan designated Hamas as subject to "asset freezing for terrorists and others, among other measures." Rishikia Singh, *Which Countries Recognise Hamas as a 'Terrorist' Organisation*, INDIAN EXPRESS (21 Nov. 2023), <https://indianexpress.com/article/explained/everyday-explainers/israel-countries-recognise-hamas-terrorist-list-9036186>. See also *Senator Collins, Bipartisan Group Urge UN to Designate Hamas as a Terrorist Organization*, SUSAN COLLINS (17 Nov. 2023), <https://www.collins.senate.gov/newsroom/senator-collins-bipartisan-group-urge-un-to-designate-hamas-as-a-terrorist-organization>.

<sup>7</sup> @HenMazzig, X (29 Nov. 2023, 2:09 PM), <https://x.com/HenMazzig/status/1729940723535888686?s=20>; @bokeralmog, X (29 Nov. 2023, 1:46 PM), <https://x.com/bokeralmog/status/1729934849161494658?s=20>.

<sup>8</sup> *Released Hostage Says He Was Held by UNRWA Teacher in Gaza – Report*, JERUSALEM POST (30 Nov. 2023, 2:40 AM), <https://www.jpost.com/middle-east/article-775777>.

<sup>9</sup> Charles Hilu, *UNRWA Teacher Held Israeli Hostage in Attic for Almost 50 Days: Report*, WASH. FREE BEACON (29 Nov. 2023), <https://freebeacon.com/latest-news/unrwa-teacher-held-israeli-hostage-in-attic-for-almost-50-days-report>.

<sup>10</sup> @HenMazzig, *supra* note 7.

<sup>11</sup> *Released Hostage Says He Was Held by UNRWA Teacher in Gaza – Report*, *supra* note 8.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Falk, *supra* note 2.

<sup>15</sup> Numerous countries have recognised that Hamas is a terrorist organisation. And since 9/11, the UN Security Council has made clear that providing any assistance to a terrorist group is a violation of

Unfortunately, this is not the first time UNRWA and Hamas have been accused of unlawfully collaborating during a time of war. In July 2014, for example, Hamas' rockets were found in at least three separate UNRWA schools.<sup>16</sup> Reports indicated that in one instance, UNRWA actually returned the rockets to Hamas, rather than destroy them.<sup>17</sup> Such actions fall far short of what is expected of UNRWA, or any other UN agency.

Unless and until the UN takes firm action against Hamas' open and notorious violations of the UN's protected status under international law, both UNRWA structures and personnel will be vulnerable to legitimate military attacks by Israeli armed forces acting in national self-defence. As you know, UN structures enjoy protected status under international law, but only insofar as they are not used for military purposes.<sup>18</sup> Hamas' unlawful placement of hostages in the homes of UNRWA employees and placement of rocket launch sites in UNRWA facilities converts such facilities from protected objects under international law into legitimate military objectives, as terrorist locations.

It must also be noted that such allegations are not made in a vacuum. UN Member States have conducted individual, independent inquiries into such allegations and have made the decisions to stop funding UNRWA, finding such allegations credible. For example, Germany, the largest donor to UNRWA, stopped funding UNRWA after an internal review found that its learning material glorifies jihad and teaches antisemitism. Other countries and administrations have stopped funding Palestinian organisations for the same reasons.<sup>19</sup>

### III. REQUEST

We urge this Commission to investigate the following: (1) UNRWA employees alleged to have held Israeli hostages taken by Hamas; (2) UNRWA facilities used as rocket launching sites; (3) UNRWA personnel who may have facilitated such actions; and (4) all other facts that bear on Hamas' misuse and endangerment of UN facilities in the Gaza Strip.

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international law. Hence, possible support of Hamas terrorists by UNRWA employees—by reportedly holding hostages and allowing Hamas to use an UNRWA facilities as rocket launching sites—may well violate IHL.

<sup>16</sup> Ilan Ben Zion, *Rockets Found in UNRWA School, for Third Time*, TIMES OF ISR. (30 July 2014, 1:28 AM), <https://www.timesofisrael.com/rockets-found-in-unrwa-school-for-third-time>; Cf. *Agency Demands Full Respect for the Sanctity of Its Premises in Gaza*, UNRWA (17 July 2014), <https://www.unrwa.org/newsroom/press-releases/unrwa-strongly-condemns-placement-rockets-school>.

<sup>17</sup> Shimon Cohen & Maayana Miskin, *UNRWA Gives Rockets to Hamas: Rockets Found in UN School Are Reportedly Handed over to Terrorist Group*, ISR. NAT'L NEWS (20 July 2014, 8:28 AM), <https://www.israelnationalnews.com/news/183089>.

<sup>18</sup> See Falk, *supra* note 2 (by reportedly using an UNRWA warehouse facility as a rocket launching site, those responsible are turning the warehouse facility into a potential military target and endangering the lives of innocent civilians as well as UN employees).

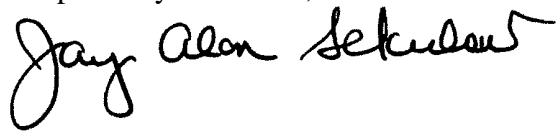
<sup>19</sup> Mary Chastain, *Germany Pulls Funding to U.N. Palestinian Aid Group After Review Finds It Handed Out Antisemitic Material*, LEGAL INSURRECTION (29 Nov. 2023, 5:00 PM), <https://legalinsurrection.com/2023/11/germany-pulls-funding-to-u-n-palestinian-aid-group-in-gaza-after-review-finds-it-handed-out-anti-semitic-material>.

This Commission has clearly stated that Hamas' taking civilian hostages and using civilians as human shields are war crimes. Likewise, UNRWA employees' participation in detaining those hostages would also constitute a war crime.

Further, until such an investigation takes place and effective measures are put in place to preclude future violations of UNRWA's protected status, the impartiality of UNRWA will remain in question, and ongoing doubts about the sanctity of UNRWA facilities will be justified. If UN facilities wish to enjoy the protection of international law, they must comply fully with the requirements of international law and be used solely for non-military purposes.

We look forward to your swift action and thorough investigation into the potential IHL violations involving UNRWA employees and facilities in Gaza.

Respectfully submitted,

A handwritten signature in black ink that reads "Jay Alan Sekulow". The signature is written in a cursive, flowing style.

Jay Alan Sekulow  
Chief Counsel