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US Sanctions against UN Special Rapporteur Francesca Albanese

Breach UN Immunities

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On 9 July 2025, the United States (US) Secretary of State, Marco Rubio, acting under Executive Order No. 14203, announced the imposition of unilateral sanctions against Francesca Paola Albanese, appointed by the United Nations (UN) Human Rights Council, since May 2022, as the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. The measures include: (i) the blocking of all property and interests in property located within the US or subject to the control of US persons; (ii) the prohibition of any donations or transfer of contributions, funds, goods or services, whether made by or for the benefit of the sanctioned person; and (iii) the suspension of that person's entry into US territory. According to Rubio's allegations, Albanese had directly engaged with the International Criminal Court in efforts to investigate, arrest, detain, and prosecute nationals of the US and Israel, without the consent of those two countries. The Special Rapporteur was further accused of being unfit to hold her mandate, of disseminating

antisemitism and expressing support for terrorism and open contempt toward the US, Israel, and the West, more generally.

Against this backdrop, it should be recalled that UN Special Rapporteurs qualify as “experts on mission” under the Convention on the Privileges and Immunities of the United Nations (General Convention), which, in its Article VI, Section 22, sets out the privileges and immunities granted to them. This post analyses these privileges and immunities and concludes that the sanctions against Francesca Albanese constitute a violation of international law.

UN Special Rapporteurs as Experts on Mission for the UN

UN Special Rapporteurs are independent experts appointed within the framework of the Human Rights Council’s special procedures system to investigate and report on the implementation of human rights in relation to a specific topic or geographical area. They serve in their personal capacity and are not regarded as staff members of the Organisation, nor do they receive salaries or other financial remuneration for their work.

The entitlement of Special Rapporteurs to invoke the privileges and immunities accorded to experts on mission under Article VI, Section 22, of the General Convention has

been the subject of a longstanding debate. The uncertainties surrounding the notion of experts on mission ultimately led the International Court of Justice (“ICJ” or “the Court”) to provide a more precise interpretation of the provision’s scope of application in the advisory opinions rendered in 1989, 1999, and, more recently, 2025.

In its Advisory Opinion of 15 December 1989 (*Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, or *Mazilu case*), the ICJ concluded that Special Rapporteurs enjoy the privileges and immunities granted to experts on mission under Article VI, Section 22, of the General Convention. The Court’s reasoning was based on the purpose of this provision, which aims “to enable the United Nations to entrust missions to persons who do not have the status of an official of the Organization, and to guarantee them ‘such privileges and immunities as are necessary for the independent exercise of their functions’” (para 47). In this light, the Court interpreted the notion of expert on mission broadly, including any individual who “may or may not be remunerated, may or may not have a contract, may be given a task requiring work over a lengthy period or a short time” (para 47). In line with UN practice, the Court noted that the Organization had frequently entrusted

missions to individuals who, although not formally classified as officials, could nonetheless be considered experts within the meaning of Article VI of the General Convention (paras 48, 54-55).

Privileges and Immunities of UN Experts on Mission

By implementing Article 105 of the Charter of the United Nations, the General Assembly adopted the General Convention on 13 February 1946, submitting it to all Member States for accession. Under Article VI, Section 22, of the Convention, “experts [...] performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions”. This provision affords to experts on mission other specific protections, most notably that set forth in Article VI, Section 22 (b), which ensures, “in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind”. This protection covers all forms of “legal process”, including measures of constraint. As noted in a 1967 study by the UN Secretariat, “these words have been broadly interpreted to include

every form of legal process before national authorities, whether judicial, administrative or executive functions according to national law" (Chapter II, section 7, letter c).

Immunities under Article VI, Section 22, of the General Convention are functional in nature (or *ratione materiae*), as they are necessary for experts – and the UN, which appointed them – to carry out their functions independently. As a consequence, such immunities do not extend to conduct related to the experts' private lives but may only cover official acts (*i.e.*, those performed by experts in the discharge of their duties), preventing any form of coercion or threats thereof.

Having demonstrated that Article VI of the General Convention applies to Special Rapporteurs, it is now necessary to determine which acts could be regarded as official. The ICJ addressed this issue in its Advisory Opinion of 29 April 1999 (*Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Cumaraswamy case*). On that occasion, the Court emphasised the central role of the UN Secretary-General, who bears the responsibility and authority to provide, as appropriate, the necessary protection to safeguard the independent work of the UN and its agents (para 51). In this context, the Secretary-General has the authority to

determine whether an agent has acted in an official capacity within the scope of his/her functions, thereby clarifying whether the person concerned may legitimately invoke the immunities granted by the General Convention (para 60). In the Court's view, such determinations establish a (relative) legal presumption to which States must give the greatest weight, and which may be set aside only "for the most compelling reasons" (para 61).

More recently, in the Advisory Opinion of 22 October 2025 (*Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*), the ICJ recognised, *inter alia*, Israel's obligation to respect the privileges and immunities granted by the General Convention in and in relation to the occupied Palestinian territories. After recalling its previous jurisprudence on the purpose of Article VI, Section 22 of the General Convention and the pivotal role of the Secretary-General (paras 203-204), the Court stated that any concern raised by a Member State about alleged abuses of the privileges and immunities granted to experts on mission must be addressed within the "existing legal framework for the settlement of differences". A Member State, therefore,

cannot merely disregard its obligations “based solely on its unilateral assessment of the allegation” (para 212). Member States have no right to unilaterally revoke the privileges and immunities granted to the UN, its officials or experts on mission, nor to refrain from fulfilling the obligations it has undertaken (para 215; see also ICJ, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion of 11 April 1949, p. 183).

This is also required by the duty of cooperation and assistance set out in Article 2, paragraph 5, of the UN Charter, which obliges Member States to afford the Organization every assistance in any action undertaken by it, as well as, *inter alia*, to ensure the enjoyment of its privileges and immunities within their territory (para 173; see also *Reparation for Injuries*, pp. 178-179). However, the scope of this duty remains a contested issue within the ICJ itself (see, for a restrictive interpretation of Article 2, paragraph 5, *separate opinion of Vice-President Sebutinde*, para 91; *joint declaration of Judges Abraham and Cleveland*, paras 6-7; *contra*, supporting a broader reading, see *separate opinion of Judge Xue*, paras 4-13; *declaration of Judge Charlesworth*, paras 1-8; *partially dissenting opinion of Judge Gómez Robledo*, paras 7-8). Nevertheless, even under a narrow

interpretation of the duty to cooperate, the continuing illegitimacy of the sanctions arising from the infringement of the General Convention would remain unaffected.

Conclusions

In light of both the UN legal system and the ICJ's case law, there can be little doubt that Francesca Albanese enjoys, in the exercise of her functions as a UN Special Rapporteur, the privileges and immunities provided under Article VI, Section 22, of the General Convention, to which the US has been a contracting party since 1970. Consequently, US sanctions violate the obligations arising from this provision, which is binding on the US, as they constitute an illegitimate interference with the independent exercise of the functions entrusted to Albanese by the UN.

In this respect, it may be worth recalling the stance taken by the US themselves in its written statement in the *Cumaraswamy* case. On that occasion, the US acknowledged that "it is critical to ensure that immunity is broad enough to accomplish the purposes for which it is created. When faced with cases involving Special Rapporteurs, who are often called upon to address human rights abuses in difficult or hostile situations, the scope of 'words spoken or written' or 'acts done by

them in the course of the performance of their mission' must be viewed in this spirit, so that immunity would be denied only in the clearest of cases" (US written statement, para 24).

Even in the hypothetical scenario that Francesca Albanese acted beyond her mandate, such an assessment does not fall within the prerogatives of a Member State but lies solely within the competence of the UN Secretary-General. Indeed, if the latter deemed it appropriate, he could – and indeed should – have waived the immunities enjoyed by Albanese: pursuant to Article VI, Section 23, of the General Convention, the Secretary-General "shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations".

In this context, Stéphane Dujarric, Spokesperson for the UN Secretary-General, while acknowledging that the imposition of sanctions against a UN Special Rapporteur is unacceptable, appeared to suggest that the matter was beyond the remit of the Secretary-General, stating that "Francesca Albanese [...] is an independent human rights expert appointed by the UN Human Rights Council and reporting to the Human Rights Council. Special Rapporteurs do not report to

the Secretary-General, and he has no authority over them or their work". Although it is correct that Special Rapporteurs are accountable to the Human Rights Council (cf. Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council, Article 15; Manual of Operations of the Special Procedures of the Human Rights Council, para 4), the statements of the Secretary-General's Spokesperson seem to overlook the legal architecture safeguarding the independence of UN experts. That framework, grounded in the UN Charter and the General Convention, confers upon the Secretary-General the responsibility and authority necessary to ensure the protection of both the UN's interests and those of its agents.

In any event, as a conflict between the UN and the US seems likely to occur, the General Assembly – along with the Security Council, other UN organs, and specialised agencies, which may at any time have been authorised by the General Assembly under Article 96, paragraph 2, of the UN Charter – could request an additional advisory opinion concerning the case of Francesca Albanese. Pursuant to Article VIII, Section 30, of the General Convention, "all differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice [...]. If a

difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties”.

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