DÁIL ÉIREANN

AN CHÚIRT BHREITHIÚNAIS IDIRNÁISIÚNTA AGUS CINEDHÍOTHÚ IN GAZA

Rith Dáil Éireann an Rún seo istigh ag an gCruinniú de Dháil Éireann a bhí ann an 31ú lá seo d'Eanáir, 2024.

THE INTERNATIONAL COURT OF JUSTICE AND GENOCIDE IN GAZA

The within Resolution was passed by Dáil Éireann at its Meeting on this 31st day of January, 2024.

Cathaoirleach Dháil Éireann

Le cur go dtí:

For transmission to: *An Taoiseach*

Go ndéanann Dáil Éireann:

a chur in iúl gur cás go mór léi an meath leanúnach atá tagtha ar an gcor in Gaza agus an tubaiste dhaonchairdiúil uafásach a d'eascair as sin, is tubaiste inar maraíodh níos mó ná 25,000 duine, ina bhfuil na mílte duine ar iarraidh, ina bhfuil beagnach dhá mhilliún duine asáitithe, agus ina bhfuil scriosadh ollmhór déanta i ndáil le tithíocht agus bonneagar bunriachtanach, lena n-áirítear ospidéil agus saoráidí oideachais;

a chásamh léi go mór neamhdheimhneacht mhór an tsoláthair bia atá ann ar scála ollmhór, agus gníomhaireachtaí na Náisiún Aontaithe (NA) ag tabhairt rabhadh faoi ghorta atá ar tí tarlú a mbeidh tionchar aige ar 400,000 duine, gur chlis an córas sláinte beagnach ar fad i gcodanna móra de Gaza agus a bhfuil 65 faoin gcéad d'ospidéil dúnta mar chuid de sin faoin am seo agus gur thug an Eagraíocht Dhomhanda Sláinte rabhadh faoi bhás forleathan de thoradh galair inchoiscthe;

a chur in iúl an athuair go gcáineann sí an bhuamáil leanúnach atá á déanamh ar Gaza ag Iosrael;

a chur in iúl an athuair go gcáineann sí, go neamhbhalbh, an t-ionsaí brúidiúil sceimhlitheoireachta a rinne Hamas ar Iosrael an 7 Deireadh Fómhair 2023

á iarraidh an athuair, ina theannta sin, go mbeidh sos cogaidh láithreach ann, go scaoilfí saor láithreach gach giall; agus béim a leagan ar an ngéarghá atá le rochtain iomlán, shábháilte, gan bhac chun cabhair dhaonchairdiúil a sheachadadh;

a thabhairt dá haire:

— imeachtaí na Cúirte Breithiúnais Idirnáisiúnta (CBI) a thionscain an Afraic Theas faoin gCoinbhinsiún um Chinedhíothú, agus an Afraic Theas a mholadh as a gníomhaíocht ina leith sin: cinneadh a dhéanamh go bhfuil sé bailí iarraidh ar CBI imscrúdú a dhéanamh i dtaobh an bhfuil baol cinedhíothaithe ann; agus tugann sí dá haire gur chuir stáit eile in iúl go bhfuil rún acu a bheith rannpháirteach sa chás;

— faoi Airteagal I den Choinbhinsiún um

That Dáil Éireann:

expresses its deepest concern at the continued deterioration of the situation in Gaza and the resulting catastrophic humanitarian disaster with over 25,000 killed, thousands missing, almost two million people displaced, and massive destruction of housing and vital infrastructure, including hospitals and education facilities;

deeply deplores the major food insecurity on a massive scale, with United Nations (UN) agencies warning of imminent famine which will affect 400,000 people, the near collapse of the health system in large parts of Gaza with 65 per cent of hospitals now shut and the World Health Organisation warning of widespread death from preventable diseases;

reiterates its condemnation of the ongoing bombardment of Gaza by Israel;

reiterates its unequivocal condemnation of the brutal terrorist attack by Hamas on Israel on 7th October, 2023

further reiterates its calls for an immediate ceasefire, the immediate release of all hostages; and the urgent need for full, safe, and unhindered access for the delivery of humanitarian aid;

notes:

— the International Court of Justice (ICJ) proceedings instituted by South Africa under the Genocide Convention, and commends South Africa for its action in this regard: determining that it is valid to ask the ICJ to investigate whether there is a risk of genocide; and notes that other states have indicated their intention to participate in the case;

— that under Article I of the Genocide

Chinedhíothú go bhfuil sé d'oibleagáid ar na Páirtithe Conarthacha an cinedhíothú a chosc;

— go sainmhínítear cinedhíothú sa Choinbhinsiún um Chinedhíothú mar "aon ghníomh díobh seo a leanas a dhéantar d'fhonn aicme náisiúnta, eitneach, chiníoch nó chreidimh a dhíothú, go hiomlán nó go páirteach, mar aicme den sórt sin:

(a) Daoine den aicme a mharú;

(b) Mórdhíobháil choirp nó intinne a dhéanamh do dhaoine den aicme sin;

(c) Dálaí maireachtála a ghearradh de dhearbh-thoil ar an aicme dá dtiocfadh an aicme a dhíothú go hiomlán nó go páirteach;

(d) Bearta a chur i bhfeidhm d'fhonn cosc a chur le breitheanna san aicme;

(e) Leanaí den aicme a aistriú go héigeanta go dtí aicme eile";

— gur Páirtí Conarthach sa Choinbhinsiún um Chinedhíothú í Éire; agus

— go bhfuil sé dearbhaithe ag CBI "go dtagann oibleagáid Stáit chun [cinedhíothú] a chosc, agus an dualgas comhréire air gníomhú, chun cinn a luaithe a fhaigheann an Stát amach faoi bhaol tromchúiseach a bheith ann go ndéanfar cinedhíothú, nó ar cheart gurbh eol dó de ghnáth go ndéanfar cinedhíothú";

— gur aithin CBI ar an 26 Eanáir 2024:

— an ceart atá ag Palaistínigh in Gaza cosaint a bheith acu ar ghníomhartha cinedhíothaithe;

— gur inchreidte roinnt de na cearta a éilíonn an Afraic Theas; agus

— go bhfuil práinn leis, sa mhéid is go bhfuil garbhaol mór ann go ndéanfar dochar buan do na cearta ar chinn an chúirt ina leith go raibh siad inchreidte, sula dtabharfaidh sí a breith chríochnaitheach; agus

— gur eisigh CBI ordú ceangailteach an 26

Convention the Contracting Parties are obliged to prevent genocide;

— that the Genocide Convention defines genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(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;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group";

— that Ireland is a Contracting Party to the Genocide Convention; and

— that the ICJ has held that "a State's obligation to prevent [genocide], 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";

— that the ICJ on 26th January, 2024 recognised:

— the right of Palestinians in Gaza to be protected from acts of genocide;

— that some rights claimed by South Africa are plausible; and

— that there is an urgency in that there is a real and imminent risk that irreparable prejudice will be caused to the rights found by the court to be plausible before it gives its final decision; and

— that the ICJ on 26th January, 2024 issued a

Eanáir 2024 le haghaidh bearta sealadacha, sa chás arna thógáil ag an Afraic Theas i gcoinne Iosrael faoin gCoinbhinsiún um Chinedhíothú, lenar ordaíodh d'Iosrael:

- gach beart faoina chumhacht a dhéanamh chun cosc a chur le gníomhartha a dhéanamh a thagann faoi raon feidhme Airteagal II den Choinbhinsiún um Chinedhíothú;
- bearta a dhéanamh chun gríosú díreach cinedhíothaithe a chosc agus a phionósú; agus
- bearta éifeachtacha a dhéanamh láithreach chun soláthar bunseirbhísí agus cúnaimh dhaonchairdiúil, a bhfuil géarghá leis, a áirithiú; agus

a iarraidh ar an Rialtas:

- a iarraidh an athuair ar Iosrael an t-ordú um bearta sealadacha a chur i ngníomh ina iomláine láithreach bonn, agus tacú leis na hiarrachtaí atá á ndéanamh in NA chun an cur i ngníomh láithreach sin a chur chun cinn agus gach gníomh déthaobhach is gá a dhéanamh chun an cur i ngníomh láithreach sin a áirithiú.
- breithniú a dhéanamh go práinneach i dtaobh dearbhú idirghabhála a chomhdú le CBI sa chás seo, bunaithe ar anailís dhlíthiúil ar an gCoinbhinsiún um Chinedhíothú, ar an ordú um bearta sealadacha de chuid na Cúirte agus ar dhul i gcomhairle le Páirtithe Conarthacha eile;
- tús a chur leis an bpróiseas ullmhúcháin maidir leis an bhféidearthacht chun páirt a ghlacadh sa chás, lena n-áirítear tuairimí cuimsitheacha i scríbhinn a dhréachtú lena gcur ar aghaidh ag an gcéim iomchuí nó ag na céimeanna iomchuí; agus
- tacú le CBI agus í ag feidhmiú a dlínse sa chás seo, go háirithe chun an Chúirt, agus forlámhas idirnáisiúnta an dlí trína bheith bainteach leis sin, a chosaint ó aon ionsaithe ar chomhlíonadh an dualgais seo, trí aon mhodh cuí is gá.

binding order for provisional measures in the case taken by South Africa against Israel under the Genocide Convention, ordering Israel to:

- take all measures within its power to prevent the commission of acts within the scope of Article II of the Genocide Convention;
- take measures to prevent and punish direct incitement of genocide; and
- take immediate and effective measures to ensure the provision of urgently needed basic services and humanitarian assistance; and

calls on the Government to:

- reiterate its call on Israel to immediately implement fully the provisional measures order, and to support efforts in the UN to promote, and take all necessary bilateral actions to ensure, this immediate implementation;
- urgently consider filing a declaration of intervention in this case with the ICJ, based on a legal analysis of the Genocide Convention, the Court's provisional measures order and consultation with other Contracting Parties;
- commence the process of preparing for potential participation in the case, including drafting comprehensive written observations to submit at the relevant phase(s); and
- support the ICJ in its exercise of jurisdiction in this case, in particular to defend the Court, and by association the international rule of law, from any attacks on its performance of this duty, through any appropriate means necessary.