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## **Full membership of the State of Palestine: problems and solutions**

### **introduction:**

According to the Montevideo Agreement of 1933, Palestine fulfilled all the conditions required for the establishment of a Palestinian state that were committed to in the Declaration of Independence in 1988 in Algeria, in accordance with Resolution 181 issued by the United Nations General Assembly in 1947, which was the basis for accepting Israel's membership in the United Nations, but given the hopes The Palestinian and Arab countries at that time called for the necessity of defeating the Israeli occupation. This decision was rejected by some Arab regimes, and unfortunately these regimes were belatedly convinced of this.

The failure of the political settlement process undertaken by the Palestinian Authority twenty years ago led to the failure to declare the establishment of a Palestinian state on the borders of June 4, 1967, including East Jerusalem. From here, the Palestinian Authority went to the United Nations with the aim of requesting recognition of the State of Palestine in 2011. Palestine's obtaining the status of an incomplete member state in the United Nations in 2012 was an important step towards the internationalization of the Palestinian issue based on international legitimacy resolutions and within the framework of the international community, which is supposed to bear its responsibilities towards any threat to international peace and security.

In his speech at the United Nations, Palestinian President Mahmoud Abbas raised the issue more than once of recognizing the Palestinian state as a full member of the United Nations, which aroused the interest of the international community in general and the Palestinian community in particular, and confused both the Israeli and American sides.

### **Conditions for obtaining full membership:**

The United Nations Charter of 1945 stipulated in Article 4 that states are accepted into membership in the United Nations based on a recommendation issued by the Security Council, under five basic conditions:

- 1- The applicant for admission must be a state, and what is meant by this is the availability of the pillars of the state (people, land, sovereignty), and international recognition, and all of these pillars are available in Palestine.
- 2- That the state be peace-loving: This condition has a political dimension, as there are no standards in the United Nations Charter for peace-loving states. The Declaration of Independence in 1988 stipulated that Palestine is a peace-loving state and will work with all countries to achieve peace.

- 3- The state's acceptance of the obligations contained in the Charter: The Security Council obligated every state that wants to join the United Nations to send a letter to the Secretary-General of the United Nations stating that it accepts commitment to the United Nations Charter, and this was confirmed by the Declaration of Independence in 1988.
- 4- The ability to implement the obligations contained in the Charter: The State of Palestine was able to join more than 100 international agreements, and this is evidence of Palestine's ability to adhere to and implement what is stated in the United Nations Charter.
- 5- That the state is willing to implement the obligations of the Charter: This condition is dominated by a political nature, and this was received by the Palestinians at the popular and official levels.

During the advisory opinion issued in 1948, the International Court of Justice refused to add any condition to the five conditions stipulated in Article 4 of the United Nations Charter, and hence Palestine fulfills these conditions.

### **Due September 2011**

On September 23, 2011, the State of Palestine submitted a request to the Security Council to obtain full membership in the United Nations, but obtaining membership requires a positive recommendation issued by the Security Council, then a vote by a two-thirds majority in the United Nations General Assembly. Palestinian President Mahmoud Abbas delivered a letter to the Secretary-General of the United Nations Ban Ki-moon dated September 23, 2011, stipulated the application for Palestine's membership in the United Nations, which referred the application to the Security Council and the committee concerned with studying the application for admission of members on September 28, 2011.

At its 109th and 110th sessions, held on September 30, 2011, and November 3, 2011, the Committee concerned with the admission of new members to the United Nations did not study the application for membership of the State of Palestine from a legal perspective, but rather from a political perspective, as the report issued by it indicates, as the committee's opinions were divided into three opinions: The first is to issue a recommendation to accept Palestine's membership for the reasons that the Montevideo Convention applies to it, and the second is the group that doubts whether Palestine applies to the Montevideo Convention under the pretext of the presence of the Hamas authority in the Gaza Strip in addition to the Israeli occupation of the West Bank, in light of the fact that the Palestine Liberation Organization is the only legitimate representative for the Palestinian people, and the third opinion proposed the inability of the request to obtain the necessary vote percentage in the Security Council, and based on that, the committee issued recommendations to grant Palestine observer state status as a compromise solution.

The State of Palestine failed to obtain full membership due to the lack of a quorum in the session of the committee concerned with accepting applications for membership, which was accepted by only 8 countries and was missing one vote. This was under pressure from the United States of

America, which threatened to use its veto, and thus the international community denied the right to a state. Palestine is a full member of the United Nations.

### **Incomplete observer state in 2012**

The United Nations General Assembly issued Resolution 19/67 on 11/29/2012, which stipulates that Palestine is accepted as an incomplete observer state in the United Nations, with 138 countries supporting it, 41 countries abstaining, compared to 9 votes against the resolution, and the privileges of the Palestine Liberation Organization were added. To the State of Palestine in accordance with General Assembly Resolution (119/67), as well as with regard to Palestine's privileges granted to it by the General Assembly in 1998 under Resolution (250/52).

The status of the State of Palestine as incomplete membership in the United Nations resulted in a number of positive effects that pave the way for obtaining full membership, including:

- 1- Replace the name of Palestine with the State of Palestine, the Palestinian Authority with the Palestinian Government, and the President of the Authority with the President of the State of Palestine.
- 2- The State of Palestine now has the right to propose items on the agenda of the Security Council and to participate in sessions related to the Middle East, as well as for the General Assembly.
- 3- Palestine's right to join a number of international agreements that were previously prohibited from them.
- 4- The possibility of Palestine participating in United Nations conferences and joining United Nations bodies and agencies.
- 5- Initiating international responsibility towards Israel, and the possibility of filing judicial complaints in the International Court of Justice or allegations in the International Criminal Court.

Unfortunately, the Palestinian leadership has not yet reaped the benefits of observer state status despite its attempts, specifically at the level of the International Criminal Court, to use the contractual mechanisms of international agreements or non-contractual mechanisms such as the Human Rights Council, for example, and the achievements it has achieved have not risen to the required level of accountability. Israel due to political considerations related to the Palestinian political will and its adherence to the settlement option and due to pressure from the United States of America.

### **Possible alternatives to obtain full membership:**

There are four alternatives that the State of Palestine can take to obtain full membership in the United Nations, which are:

- 1- Obtaining recognition from more countries by increasing their diplomatic representation in countries that have not yet recognized the State of Palestine in the General Assembly,

by heading to the General Assembly to issue a draft resolution urging countries to recognize the State of Palestine, and obligating these countries to accept the majority decision, and by adopting On the Palestinian representations and the diplomatic corps by developing bilateral relations, and this is what makes the international community convinced of the desire of the State of Palestine to implement the United Nations Charter, especially after its commitment to international agreements.

- 2- Re-application for membership in the Security Council: The General Assembly has the right to reject the Security Council's request to reconsider accepting the membership of a state in accordance with Article 137 of the United Nations Rules of Procedure, especially if the State of Palestine repeats its application and it is rejected more than once as a result of the American veto, or for other reasons, as It happened in 1946 when it used its veto against the accession of Jordan, Vietnam, Libya, Finland... where the Soviet Union at that time also faced Portugal's accession with a veto, until these countries were accepted.
- 3- Activating the United for Peace Resolution: The United States of America has no right to obstruct the activation of Resolution 377 United for Peace because it was the one who contributed to its inclusion in 1950, to resolve many of the issues facing the veto, and under the pretext of transferring controversial issues to the United Nations General Assembly, and it was done. Activating this decision, for example, but not limited to, against Donald Trump's decision to change the legal status of Jerusalem in 2017...
- 4- International Court of Justice: Since the beginning of the year 2023, the United Nations General Assembly has turned to the International Court of Justice to request an advisory opinion regarding the long-term Israeli occupation in the Palestinian territories occupied in 1967, including East Jerusalem, and how the international community should deal with this occupation. The court's attention must be drawn to The necessity of issuing a resolution that allows the General Assembly to vote on the decision to accept Palestine as a full member state without returning to the Security Council, in order to help the State of Palestine achieve independence and determine the fate of the Palestinian people on their land.

### **Conclusion:**

The State of Palestine has great chances of obtaining full membership in the United Nations if the official Palestinian leadership takes advantage of the regional and international circumstances, by constantly repeating attempts, which places the General Assembly before its responsibilities, and ends the Palestinian division to unify political efforts, support the strength of Palestinian representation, and remove the obstacles that are put in place. In the face of the Hamas authority in the Gaza Strip, and to continue diplomatic work to increase the number of states recognizing them, and not to be satisfied with success in 2012, as an interim step to obtain full membership and fully implement international agreements, to prove that the State of Palestine is qualified to implement the United Nations Charter and adhere to international law and international resolutions.